

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

2005 FEB -2 P 3:28

COY PHELPS

PETITIONER

-v-

DAVID WINK, et al

RESPONDENT(S)

CASE NO: 05-05 DISTRICT COURT
DISTRICT OF MASS.

MOTION TO
AMEND THE COMPLAINT

NONE OF THE RESPONDENTS IN THIS CASE HAVE BEEN SERVED WITH A SUMMONS OR A COPY OF THE COMPLAINT, SO THE ABOVE PETITIONER REQUEST THIS COURT'S PERMISSION TO AMEND THE COMPLAINT TO ADD INFORMATION NOT KNOWN BEFORE AND TO ATTEMPT TO MAKE THE COMPLAINT BETTER ORGANIZED WITHOUT CHANGING THE MERITS.

THE PETITIONER IS ADDING THE RESPONDENT J. SORRELLA AND ADDING THE ADMINISTRATIVE REMEDY FILE NUMBERS TO THE EXHAUSTION OF ADMINISTRATIVE REMEDY SECTION (291331 - CHALLENGING ALL BOP RULES, AND 261518 - CHALLENGING ALL ACTS, ACTIONS, INSTRUCTIONS, AND OMISSIONS OF BOP EMPLOYEES)

A COPY OF THE AMENDED COMPLAINT IS ATTACHED

DATE: 1-30-05

Coy Phelps IN PRO SE

COY PHELPS 78872-011

PMC-DEVENS

42 PATTON ROAD

P.O. BOX 879

AYER, MA 01432

05-40003

CASE NUMBER

FILED
IN CLERKS OFFICE

ORIGINAL
FILED
ON

UNITED STATES DISTRICT COURT
FEB -2 P 3:28

DISTRICT OF MASSACHUSETTS

U.S. DISTRICT COURT
DISTRICT OF MASS.

COY PHELPS

PETITIONER

-V-

05-40003

DAVID WINN, AND MIKE BOLLINGER, AND

JAMES DOLD, AND S. THOMPSON, AND

S. HARVEY, AND B. POTOLICCHIO, AND

J. DAVIS, AND J. FLETCHER, AND

W. BLAZON, AND H. HAAS, K. LEONARD, AND

J. SONNEGA, et al.

RESPONDENTS

FIRST AMENDED

PERSONAL INJURY AND A CIVIL RIGHTS

COMPLAINT

DATE: 1-30-2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC-DEVENS

P.O. BOX 879

AYER, MASSACHUSETTS

01432

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

COY PHELPS

PETITIONER

-V-

DAVID WIKON MIKE BOLLINGER,

JAMES DOLD, S. THOMPSON, S. HARVEY

B. POTOLICCHIO, J. FLETCHER,

J. DAVIS, W. BLAZON, H. HAAS,

K. LEONARD, J. SONNESA, ET AL.

RESPONDENT(S)

CASE NO: 05-40003-GAO

A

PERSONAL INJURY

AND A

CIVIL RIGHTS

COMPLAINT

(A BIVENS ACTION)

I

JURISDICTION AND AUTHORITY

THIS COURT HAS JURISDICTION TO REVIEW THIS COMPLAINT AND TO GRANT RELIEF AND REMEDY UNDER BIVEN V SIX UNKNOWN NAMED AGENTS OF THE FEDERAL BUREAU OF NARCOTICS, 1971, 403 US 388, 29 LEd2d 619, 91 S. CT 1999, AND 5 USC 701-706 (JUDICIAL REVIEW OF AGENCY ACTIONS), 28 USC 1331 (FEDERAL QUESTION), 28 USC 1343 (CIVIL RIGHTS VINDICATION), 28 USC 1346 (FEDERAL TORTS), 28 USC 2201-2202 (DECLARATORY JUDGMENT), 28 USC 2674-2680 (US LIABILITY), 42 USC 233 (PUBLIC HEALTH SERVICE), AND 42 USC 1988 (COMMON LAW-ATTORNEY FEES), AND THE AMERICANS WITH DISABILITIES ACT (42 USC 12101), RELIGIOUS FREEDOM ACTS (42 USC 2000bb-2000cc), AND FREEDOM OF INFORMATION/PRIVACY ACT (5 USC 552a(g)(1))

1

II

EXHAUSTION OF ADMINISTRATIVE REMEDIES

THE PETITIONER (HEREAFTER PHOLPS) HAS EXHAUSTED ADMINISTRATIVE REMEDIES 281333 (ALL ACTIONS, ACD, WAIVER, AND EMPLOYMENT) 267514 (CITIZENSHIP & ALL RIGHTS)

III

PARTIES

PETITIONER:

THE PETITIONER IN THIS ACTION IS COY PHOLPS 78872-011 AND HAS A MAILING ADDRESS OF FMC-DEVENS, 42 PATTON ROAD, P.O. BOX 879, AYER, MASSACHUSETTS, 01432;

RESPONDENTS:

ALL OF THE RESPONDENTS ARE SUED IN THEIR PERSONAL AND INDIVIDUAL CAPACITIES;

RESPONDENTS DAVID WINN, MIKE BOLLINGER, JAMES BOLD, S. HARVEY, K. LEONARD, J. FLETCHER, B. PETELIKCHIC, J. DAVIS, W. BLAZEN, AND J. SONNEGA ARE EMPLOYED AT THE U.S. BUREAU OF PRISONS AND WORK AT THE FEDERAL MEDICAL CENTER (FMC) AT DEVENS, MASSACHUSETTS AND HAVE A BUSINESS MAILING ADDRESS OF 42 PATTON ROAD, P.O. BOX 880, AYER, MASSACHUSETTS, 01432.

RESPONDENT S. THOMPSON IS EMPLOYED BY THE U.S. PUBLIC HEALTH SERVICE AND ASSIGNED TO DUTY IN THE U.S. BUREAU OF PRISONS AND WORKS AT FMC-DEVENS AND HAS A MAILING ADDRESS OF 42 PATTON ROAD, P.O. BOX 880, AYER, MASSACHUSETTS, 01432.

IV

STATEMENT OF THE ISSUES

1. IS PHELPS LAWFULLY UNDER THE JURISDICTION OF 18 USC 4243?
2. DID THE U.S. ATTORNEY GENERAL MISAPPLY THE FEDERAL MENTAL HEALTH LAWS?
3. DOES THE U.S. BUREAU OF PRISONS HAVE LAWFUL CUSTODY OF PHELPS OR ANY OTHER INMATE COMMITTED UNDER 18 USC 4243 (INSANITY ACQUITTAL) OR 18 USC 4246 (OTHER CIVIL COMMITMENTS)?
4. DID THE U.S. ATTORNEY GENERAL VIOLATE SUBSECTION (1) OF 18 USC 4247 BY PLACING PHELPS IN FEDERAL CONFINEMENT INSTEAD OF STATE, LOCAL, OR PRIVATE CONFINEMENT?
5. DID THE EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ACT IN CLEAR ABSENCE OF ALL LAWFUL JURISDICTION AND AUTHORITY?
6. CAN A UNCONVICTED CIVIL MENTAL PATIENT (PHELPS) LAWFULLY SUFFER THE SAME ENVIRONMENT, ATMOSPHERE, CONDITIONS, DISCIPLINES, PUNISHMENTS, CARE, AND TREATMENT AS CONVICTED AND SENTENCED CRIMINAL PRISONERS WITHOUT VIOLATING FEDERAL LAW, THE U.S. CONSTITUTION, AND U.S. V. JONES, 1983, 463 US 354?
7. ARE THE EMPLOYEES OF THE U.S. PUBLIC HEALTH SERVICE, OR THE EMPLOYEES OF THE U.S. BUREAU OF PRISONS RESPONSIBLE FOR THE DAY-TO-DAY DIRECT CARE AND TREATMENT OF CIVIL INMATES COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 (SEE ALSO 18 USC 4042, 18 USC 4247(i), AND 28 CFR 0.95-0.96)?
8. HAVE THE RESPONDENTS COMPLIED WITH THE TERMS OF 18 USC 4243 AND 18 USC 4247(a) AND (i)?
9. CAN U.S. BUREAU OF PRISON RULES AND REGULATIONS ESTABLISHED FOR CONVICTED PRISONERS BE LAWFULLY APPLIED TO UNCONVICTED CIVIL MENTAL PATIENTS?
10. DID THE B.O.P. STAFF, EMPLOYEES, AND MEMBERS DEPRIVE, DENY, AND VIOLATE THE CONSTITUTIONAL, STATUTORY, CIVIL, AND COMMON LAW GUARANTEED, FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SAFEGUARDS OF PHELPS?
11. HAVE THE BOP STAFF USED PROFESSIONAL JUDGMENT AS REQUIRED BY YOUNGBERG v. ROSS, 1982, 457 US 367?

12. DID PHELPS SUFFER IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, SPIRITUAL, AND LEGAL LOSS, HARM, INJURY, ANGUISH, PAIN, AND SUFFERING BECAUSE OF THE ACTS, ACTIONS, INACTIONS, AND COMMISSIONS OF THE U.S. ATTORNEY GENERAL AND THE BOP STAFF AND EMPLOYEES?

II

BACKGROUND

DURING THE CULTURAL, SOCIAL, AND RACIAL UPHEAVAL AND REVOLUTION OF THE 1960'S, 1970'S, AND 1980'S, PHELPS WAS CONVERTED TO THE NAZI RELIGION AND INCORPORATED A CHURCH IN THE STATE OF CALIFORNIA AND BEGAN TEACHING THE TENETS AND BELIEFS OF HIS RELIGION AS PRESENTED IN THE SCRIPTURES OF THE CHRISTIAN HOLY BIBLE. HE PROSELYTIZED RACIAL PURITY AND RACIAL SEGREGATION AS WELL AS WHITE SUPREMACY AS THE FUNDAMENTAL COMMANDMENTS OF GOD. HE IDENTIFIED (AS DID JESUS) THE JEWS AS BEING DEVILS FROM HELL AND ALL NON WHITES AS BEING THE RESULTS OF MIXBREEDING OF SATAN WITH THE MONKEY KINGDOM AND EVOLUTIONIZING BY GEOGRAPHIC ADAPTATION. HE RECEIVED HUNDREDS OF DEATH THREATS FROM JEWS AND OTHERS AND SUFFERED ASSAULTS AND PROPERTY LOSS, BECAUSE OF HIS SINCERELY HELD SHARED RELIGIOUS BELIEFS.

IN 1989 PHELPS WAS ARRESTED ON CHARGES OF BOMBING JEW SYNAGOGUES, THE HOMES OF JEW RABBIS, AND SCHOOLS, THAT TAUGHT BLACK SUPREMACY.

PHELPS CLAIMED TO BE INNOCENT AND THAT HE WAS BEING FRAMED IN A INTERNATIONAL JEW CONSPIRACY. EVERYONE BELIEVED THIS TO BE A DELUSION THAT QUALIFIED PHELPS FOR A INSANITY PLEA.

IN JULY OF 1986 PHELPS WAS FOUND NOT GUILTY BY REASON OF INSANITY (NRI)

AND WAS COMMITTED TO THE CUSTODY OF THE U.S. ATTORNEY GENERAL PURSUANT TO 18 USC 4243(e) WHO, IN TURN, PLACED PHELPS IN THE CUSTODY OF THE DIRECTOR OF THE U.S. BUREAU OF PRISONS WHO, IN TURN, DELEGATED HIS AUTHORITY TO VARIOUS WARDENS OF VARIOUS PRISONS IN THE FEDERAL SYSTEM.

PHELPS WAS UNSHAKEN IN HIS INTERNATIONAL CONSPIRACY CLAIM AND THIS "DELUSION" KEPT HIM INCARCERATED.

THEN, SEVEN YEARS AFTER HIS INCARCERATION BEGAN, THE DISTRICT ATTORNEY OF SAN FRANCISCO, CALIFORNIA RAIDED THE OFFICES OF A JEW ORGANIZATION (ANTI-DEFAMATION LEAGUE OF BETH BETH) AND SEIZED ALL RECORDS AND DOCUMENTS. IN THE SEIZED RECORDS WAS A DOSSIER ON PHELPS THAT SHOWED PHELPS WAS ACTUALLY INNOCENT OF THE CRIMES AND THAT HIS CLAIM OF BEING FRAMED IN A INTERNATIONAL CONSPIRACY WAS ACTUALLY TRUE AND WAS NEVER A DELUSION AT ALL.

THE DISTRICT ATTORNEY NOTIFIED THE DEPARTMENT OF JUSTICE (DOJ) AND THE U.S. BUREAU OF PRISONS OF THE DISCOVERED EVIDENCE.

NEITHER THE DOJ OR THE BOP MADE ANY EFFORT TO EFFECT THE RELEASE OF PHELPS BECAUSE THEY CONSIDERED THE RELIGIOUS TEACHINGS OF PHELPS TO BE POLITICALLY INCORRECT AND DANGEROUS.

PHELPS MADE REPEATED ATTEMPTS TO FIND RELIEF FROM THE COURTS, BUT EVERY TIME THE COURT WAS READY TO RULE ON THE ISSUE, THE BOP WOULD TRANSFER PHELPS TO ANOTHER JUDICIAL CIRCUIT AND THEN RUSH INTO COURT WITH A MOTION TO DISMISS ON THE GROUNDS OF MOOTNESS. AFTER THE THIRD TIME, THE 5TH CIRCUIT SAID "WE NOTE THAT PHELPS HAS BEEN TRANSFERRED TWICE BEFORE TO MOOT THIS ISSUE. WE HOPE THIS IS NOT A PATTERN." (PHELPS V US FEDERAL GOVERNMENT, SC994, 15 F3d 735.) TIME HAS MADE NO CHANGE.

PIHELPS HAS BEEN TRANSFERRED REPEATEDLY TO MEET THE ISSUE OF FALSE IMPRISONMENT (RETAINING UNLAWFULLY) ~~AND~~ THE 3RD CIRCUIT RULING IT IN A PUBLISHED OPINION. IN ADDITION, A BOP PSYCHIATRIST (DR. STEPHEN LUCH) AND A BOP PSYCHOLOGIST (DR. MARCEL HAZENBACH) REPORTED TO THE COURT THAT THEY HAD SOON (AND CORRECTED) THE EVIDENCE THAT PIHELPS WAS ACTUALLY INDECENT AND HAD NEVER BEEN MENTALLY ILL SINCE THE ONE AND NEEDED FOR HIS RELEASE. IN 2004, PIHELPS WAS TRANSFERRED TO FMC-BEYOND WHERE HE IS TODAY.

FACTS

1. PIHELPS IS NOT UNDER THE JURISDICTION OF 18 USC 4243:

(A) THE STATUTE REQUIRES A CRIME — A VIOLATION OF A CRIMINAL LAW;

(1) THE GOVERNMENT HAS AUCROPHY ADMITTED (IN OPEN COURT) THAT PIHELPS

(A) DID NOT COMMIT A CRIME,

(B) DID NOT VIOLATE ANY LAW,

(C) DID NOT VIOLATE ANY KIND OF PROBATION OR RELEASE CONDITION,

(D) DID NOT VIOLATE ANY KIND OF COURT ORDER,

(E) DID NOT CONSPIRE WITH ANYONE TO COMMIT A CRIME,

(F) DID NOT ASSOCIATE WITH ANYONE ENGAGED IN CRIMINAL ACTIVITY.

(B) THE GOVERNMENT KNOWS THAT PIHELPS CANNOT LITIGIOUSLY BE SUBJECT TO 4243

(C) 18 USC 4001(A) STATES THAT NO CITIZEN WILL BE DETAINED, OR IMPRISONED, UNLESS HE HAS VIOLATED A LAW,

(SINCE 4243 REQUIRES A CRIME AND PIHELPS DID NOT COMMIT A CRIME, HE IS NOT UNDER THE JURISDICTION OF THE STATUTE AND THE PROVISIONS AND TERMS OF THE STATUTE DOES NOT APPLY TO HIM)

(D) THE STATUTE MAKES THE U.S. ATTORNEY GENERAL THE ONE RESPONSIBLE TO OVERSEE THE OPERATIONS OF THE PROVISIONS OF THE STATUTE;

1. THE FEDERAL GOVERNMENT DOES NOT HAVE A FEDERAL CIVIL HOSPITAL IN WHICH TO CONFINED
 FEDERAL INSANITY ACQUITTEES, AS THE STATUTE REQUIRES, BUT IT DESPERATELY NEEDS ONE
 (FOUCHA V LOUISIANA, 1994, 504 US 71); MACZETTEA V CIRCLE, WDMO 1969, 305 F.Supp 175;
JONES V HARRIS, 801964, 339 F2J 535) SEE DAVIS V REPTURE 102001, 264 B3 86 AT 110

(A) THE COURTS HAVE CONTINUOUSLY HELD THAT THE FEDERAL MEDICAL CENTERS IN THE
 U.S. BUREAU OF PRISON SYSTEM ARE PRISONS, NOT HOSPITALS, AND THOSE CONFINED
 THEREIN SUFFER INCARCERATION, NOT HOSPITALIZATION (WILLIAMS V RICHARDSON,
 801973, 481 F2J 358; US V HINCKLEY, DDC 1989, 125 F.Supp 616) REGARDLESS OF
 THE LABEL (VAN SIRS V CIRCLE, 801971, 437 F2J 834) BECAUSE, REGARDLESS OF
 THE NAME (MEDICAL CENTER) IT OPERATES, FUNCTIONS, AND IS ADMINISTERED AS A
 PRISON BY BOP STAFF TRAINED IN PENOLOGY (RAWLES V US, 801964, 331 F2J 21)
 WHEN A FACILITY LOCKS PEOPLE IN CELLS, RESTRICT PRIVILEGES, DISCIPLINE AND
 PUNISH PEOPLE FOR INFRACTIONS OF RIGIDLY ENFORCED RULES, REQUIRES OBEYANCE
 AND SUBMISSION TO AUTHORITY, AND CONDUCTS ACTIVITIES BEHIND WALLS OF HIGH
 SECURITY FENCES, THEN THE FACILITY IS A PRISON - NOT A HOSPITAL (COVINGTON V
HARRIS, DCApp 1969, 419 F2J 617). IF THE FACILITY IS ADMINISTERED BY
 THE U.S. ATTORNEY GENERAL AND NOT THE SECRETARY OF THE DHEHS, THEN IT
 IS A PRISON - NOT A HOSPITAL (FROST V CIRCLE, WDMO 1970, 315 F.Supp 899)

(B) EVEN IF THE FEDERAL GOVERNMENT CONSTRUCTED A PHYSICAL BUILDING AND PUT
 A SIGN ON IT READING "CIVIL HOSPITAL", THE GOVERNMENT STILL COULD NOT
 CONFINED THEM IN IT, BECAUSE THERE ARE NO PROVISIONS IN THE LAWS THAT
 ALLOWS FOR FEDERAL CONFINEMENT.

(1) FIRST, CONGRESS MUST MODIFY THE STATUTE TO INCLUDE FEDERAL CONFINEMENT,
 THEN IT MUST CONSTRUCT A PHYSICAL CIVIL HOSPITAL, AND THEN STAFF IT
 WITH NON-BUREAU OF PRISON EMPLOYEES - TO MEET THE REQUIREMENTS OF
 18 USC 4243, 4247, AND SUPREME COURT LAW.

3. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE CLEARLY ERRONEOUS INTERPRETATIONS AND CONCLUSIONS OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS:

(A) UNDER SUBSECTION (E) OF 18 USC 4243, THE ATTORNEY GENERAL HAS ONLY 3 OPTIONS:

(1) RELEASE THE INSANITY ACQUITTEE TO THE COMMUNITY UNCONDITIONALLY

(2) CAUSE AN APPROPRIATE STATE OFFICIAL TO ASSUME RESPONSIBILITY OF THE ACQUITTEE

(A) UNDER 18 USC 4247(i) THE ATTORNEY GENERAL MAY PETITION A STATE COURT FOR A STATE CIVIL COMMITMENT INTO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAWS

(3) CONFINING ("HOSPITALIZE") THE INSANITY ACQUITTEE TO A "SUITABLE" FACILITY DEPENDING UPON THE INDIVIDUAL CHARACTER OF THE PERSON AND THE NATURE OF THE CRIME (18 USC 4247(c))

(B) IF THE ATTORNEY GENERAL CHOOSES TO "HOSPITALIZE" THE ACQUITTEE, HE MUST —

(1) PUT PHELPS IN THE CUSTODY OF THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)

(A) IT IS THE SECRETARY WHO IMPLEMENTS THE PROVISIONS OF THE FEDERAL MENTAL HEALTH LAWS (18 USC 4247(i)(D))

(B) THE ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PHELPS IN THE CUSTODY OF THE DIRECTOR OF THE U.S. BUREAU OF PRISONS AS IF PHELPS WAS A CONVICTED PRISONER WHO HAD BEEN FOUND GUILTY AND SENTENCED TO A TERM OF PUNISHMENT

(2) HE MUST MAKE SURE THE FACILITY HAS BEEN APPROVED AND CERTIFIED BY THE SECRETARY OF THE DHHS AS BEING A HOSPITAL;

(A) THE SECRETARY HAS NEVER APPROVED ANY B.O.P. FACILITY. WHY?

BECAUSE IT WOULD BE UNLAWFUL. ALL THE BOP FACILITIES ARE CONSTRUCTED UNDER PUBLIC LAW AS PRISONS AND ARE ACCREDITED AS PRISONS. THEY CANNOT BE BOTH HOSPITALS AND PRISONS AND OPERATE ONLY AS A PRISON.

(3) HE MUST MAKE SURE THE FACILITY HAS A REHABILITATION PROGRAM THAT MEETS THE STANDARDS OF 18 USC 4247(c) AND WHICH HAS BEEN APPROVED BY THE SECRETARY OF THE DHHHS (18 USC 4247(i)(c))

(A) NONE OF THE BOP FACILITIES MEET THE REHABILITATION STANDARDS, AND NO REHABILITATION PROGRAM HAS EVER BEEN APPROVED BY THE SECRETARY OF THE DHHHS

(C) IF THE STATE COURT WILL NOT COMMIT THE ACQUITTEE TO A STATE MENTAL HOSPITAL PURSUANT TO STATE LAWS, THEN THE ATTORNEY GENERAL HAS ONLY 3 OTHER OPTIONS IF HE STILL WISHES TO "HOSPITALIZE" THE ACQUITTEE. HE CAN —

(1) ENTER INTO A CONTRACT WITH A STATE (OR POLITICAL SUB-DIVISION)

(A) NOTE THAT THE ATTORNEY GENERAL CAN STILL HOSPITALIZE PHELPS IN A STATE MENTAL HOSPITAL BY CONTRACT - BUT NOW HE IS PAYING THE BILLS

(2) ENTER INTO A CONTRACT WITH A LOCALITY, OR

(3) ENTER INTO A CONTRACT WITH A PRIVATE AGENCY

(18 USC 4247(i)(3)) THESE ARE HIS ONLY OPTIONS

THERE ARE NO OPTIONS - NO PROVISION - FOR FEDERAL CONFINEMENT

✦ THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PHELPS:

(A) THERE ARE NO PROVISIONS IN 18 USC 4243 OR 18 USC 4247 FOR FEDERAL CONFINEMENT

(B) THE U.S. ATTORNEY GENERAL IS REQUIRED TO PUT PHELPS IN THE CUSTODY OF THE SECRETARY OF THE DHHHS - NOT THE U.S. BUREAU OF PRISONS

(C) UNDER 18 USC 4042 (AND 28 CFR 0.95-0.96) THE B.O.P. ONLY HAS AUTHORITY OVER PENAL AND CORRECTIONAL INSTITUTIONS (NOT HOSPITALS)

(1) 18 USC 4243 REQUIRES PHELPS TO BE "HOSPITALIZED."

(D) 18 USC 4042 (AND 28 CFR 0.95-0.96) GIVES THE BUREAU OF PRISONS AUTHORITY ONLY OVER THOSE CHARGED WITH CRIMES AND THOSE CONVICTED OF CRIMES (NOT CIVIL COMMITMENTS / INSANITY ACQUITTees);

(1) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES, FEDERAL CONFINEMENT FOR INSANITY ACQUITTees;

(A) NO FEDERAL AGENCY CAN ENACT A RULE OR REGULATION GIVING ITSELF THAT AUTHORITY;

(B) EVEN CONGRESS CANNOT MAKE A FEDERAL REGULATION WITHOUT A STATUTE AUTHORIZING THAT REGULATION; *

(C) THE BUREAU OF PRISONS HAS SEVERAL RULES AND REGULATIONS ESTABLISHED WITHOUT STATUTORY AUTHORITY;

(1) SOME CURRENT RULES AND REGULATIONS WERE ESTABLISHED ON STATUTORY AUTHORITY WHICH HAS BEEN REPEALED OR ABROGATED;

(D) 28 CFR 551.101(a)(4) AND BUREAU OF PRISON POLICY 7351.04 ALLOWING A CIVIL COMMITMENT / INSANITY ACQUITTee TO BE TREATED AS A CONVICTED AND SENTENCED PRISONER VIOLATES THE SCHEME AND INTENT OF 18 USC 4243 AND 4246 AND VIOLATES U.S. v JONES, 1983, 463 US 354 n. 369 (INSANITY ACQUITTees CANNOT BE TREATED AS CONVICTED PRISONERS) SEE U.S. v SPAIN, 761999, 174 F3d 892 (PRINCIPLES OF CRIMINAL SENTENCING DO NOT APPLY TO INSANITY ACQUITTees)

* EVEN THE COURTS CANNOT ACT WITHOUT STATUTORY AUTHORITY (US v SOTELA, 761976, 94 F3d 1037 AT 1040)

5 ALL OF THE STAFF, EMPLOYEES, PERSONNEL, AND MEMBERS (FULL TIME, PART TIME, CONSULTS, VOLUNTEERS, AND CONTRACTED WORKERS) OF THE U.S. BUREAU OF PRISONS ARE IN CLEAR ABSENCE OF ALL LAWFUL JURISDICTION AND AUTHORITY IN THE CUSTODY, CONFINEMENT, CARE, AND TREATMENT OF (AND PROVIDING SERVICES FOR) INSANITY ACQUITTEES AND OTHER CIVIL COMMITMENTS (18 USC 4243 AND 18 USC 4246)

(A) THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS ALLOWING, OR AUTHORIZING, FEDERAL CONFINEMENT:

(1) WHEN A STATUTE IS SILENT ON A ISSUE, OR HAS NO PROVISION, THERE IS A CORRESPONDING LACK OF AUTHORITY, (KEENE V US, 1993, 508 US 200, ISFP V RESOLUTIONS, 1994, 511 US 531)

(A) SINCE 18 USC 4243 AND 18 USC 4247 DOES NOT AUTHORIZE THE BOP TO HAVE CUSTODY OF PHELPs, THE EMPLOYEES OF THE BOP HAVE NO LAWFUL AUTHORITY OVER PHELPs. THEY CANNOT DO ANYTHING TO PHELPs OR FOR PHELPs WITHOUT VIOLATING HIS RIGHTS

(B) THE BOP MEMBERS KNOW (AND UNDERSTAND) THE LEGAL DIFFERENCE BETWEEN A CIVIL COMMITMENT AND A CRIMINAL SENTENCE, AND THE LEGAL DIFFERENCE BETWEEN A UNCONVICTED CIVIL PATIENT AND A CONVICTED CRIMINAL PRISONER BUT REFUSE TO TREAT THEM DIFFERENTLY

(1) THE BOP TREATS A UNCONVICTED CIVIL PATIENT AS A CONVICTED AND SENTENCED PRISONER BY RULES AND REGULATIONS, BUT IN CUSTOM AND PRACTICE, THE UNCONVICTED CIVIL MENTAL PATIENT IS TREATED FAR WORSE THAN SENTENCED PRISONERS AND WITH GREATER DISPARITY AND INTOLERANCE.

(A) EACH TIME A GROUP OF PEOPLE VISITS THE FACILITIES TO INVESTIGATE COMPLAINTS AND CONDITIONS, THE MENTAL HEALTH UNITS AND PATIENTS ARE AVOIDED

(1) ON OCCASION WHEN A MENTAL PATIENT DOES COMPLAIN, HE IS PUNISHED FOR COMPLAINING, (CORRECTIVE THERAPY)

6. THE COURTS ADMIT TO A DISTINCTION BETWEEN CIVIL COMMITMENTS AND CRIMINAL SENTENCES, AND BETWEEN UNCONVICTED AND CONVICTED, AND BETWEEN A UNCONVICTED CIVIL PATIENT AND A CONVICTED CRIMINAL PRISONER:

(A) PAGE V TOLLEY, 402000, 201 F.3d 1136 at 1140 (PRISONER LITIGATION ACT/AMAR DOES NOT APPLY TO CIVIL COMMITMENTS) KING V ORRICK, 1999, 53 F.Supp.2d 117 at 138 (SAME)

(B) GRAVES V KELLER, 1985, 607 F.Supp. 1136 (THE COURT HAS EVER HELD THAT A CIVIL COMMITMENT IS THE SAME AS A CRIMINAL SENTENCE OR THAT HOSPITALIZATION WAS THE SAME AS INCARCERATION) AWRIGHT V CHILES, 1992, 975 F.2d 343 (SAME)

(C) COLE V HOLLAND, 1976, 411 F.Supp. 105 (THE BASIS FOR INCARCERATION IS TO PROTECT THE COMMUNITY - THE BASIS FOR A CIVIL COMMITMENT IS TO TREAT THE ILL)

(D) U.S. V JAMES, 1999, 174 F.3d 892 (THE PRINCIPLES OF CRIMINAL SENTENCING DOES NOT APPLY TO INSANITY ACQUITTees)

(E) U.S. V JONES, 1983, 463 U.S. 354 (INSANITY ACQUITTees CANNOT BE TREATED AS CONVICTED PRISONERS)

(F) JENNINGS V NYS MEDICAL CENTER, 1992, 786 F.Supp. 326 (CRIMINAL CONFINEMENT IS NOT THE SAME AS A CIVIL COMMITMENT) WARREN V HARVEY, 1979, 472 F.Supp. 1061 (SAME)

(G) SCHULZ V MARTIN, 1986, 467 U.S. 253 (CONFINING THE MENTALLY ILL IN A PENAL ENVIRONMENT IS IMPERMISSIBLE) WHEELER V TOLSON, 1960, 364 U.S. 479 (SAME); FRENCH V BUTCHER, 1977, 428 F.Supp. 1351 (SAME); LYNCH V BAXLEY, 1982, 336 F.Supp. 373 AFF 651 F.2d 337, 744 F.2d 1453 (SAME); CAMERON V TOLSON, 1992, 783 F.Supp. 1511 (SAME); DAVIS V BALDWIN, 1978, 461 F.Supp. 542, PENNINGTON V HARRINGTON, 1984, 451 U.S. 1 (SAME)

YET THE COURTS (IN THIS CASE) HAVE TREATED PHILIPS EQUAL TO, OR WORSE THAN, CONVICTED PRISONERS UNDER A SENTENCE OF CRIMINAL PUNISHMENT.

(A) THE COURT SENT PHILIPS TO PRISON INSTEAD OF SENDING HIM TO A HOSPITAL AS REQUIRED BY LAW

(B) THE COURT PUT PHILIPS ON CRIMINAL PROBATION CONDITIONS INSTEAD OF PSYCHIATRIC CONDITIONS

(C) THE COURT HAD PHILIPS SUPERVISED BY A CRIMINAL PROBATION OFFICER WHO WAS UNQUALIFIED BY HAVING NO KNOWLEDGE, SKILLS, OR EXPERIENCE IN MENTAL HEALTH

(D) HAD PHILIPS ARRESTED ON A BUNKER WITHOUT STOPPING BECAUSE SHE DISTURBED WITH THE RELIGION OF PHILIPS

(E) 18 USC 3603(b)(1) IS UNCONSTITUTIONAL BECAUSE IT CONFLICTS WITH THE FEDERAL MENTAL HEALTH LAWS (SEE US v. MORGAN, 10178, 851 F.2d 529) AND IT CONFLICTS WITH THE SCOPE AND INTENT OF THE MENTAL HEALTH LAWS (SEE US v. ALBISTON, 501985, 761 F.2d 854)

7. 18 USC 4243 AND 18 USC 4247(c) REQUIRES "INDIVIDUALIZED" CARE AND TREATMENT ACCORDING TO THE CHARACTER OF THE INDIVIDUAL. THE BOP HAS A POLICY OF TREATING ALL MENTAL PATIENTS PUNISH. (IN 20 YEARS OF INCARCERATION, PETERS HAS NEVER HAD "INDIVIDUALIZED" CARE AND TREATMENT. 42 USC 10541 IS THE MENTAL PATIENTS BILL OF RIGHTS.

SEE NELSON v. HAYME, 40 DM 1972, 491 F.2d 352 (INDIVIDUALIZED TREATMENT REQUIRED) BUTNEY v. WFL COMMISSIONERS, 72 F.2d 813 F.2d 1046 (SAME), CHATERINE v. WILSON, 1982, 546 F.Supp 174 (CRIMINAL COUNCIL THERAPY PROHIBITED), PROFF v. HARNER, 01 KM 1989, 730 F.Supp 242 (MUST BE INDIVIDUALIZED IN THE LEAST RESTRICTIVE AND LEAST RESTRICTIVE SETTING) THE BOP IS THE OPPOSITE- THE BOP MENTAL PATIENTS IN THE MOST RESTRICTIVE SETTING - AUTOMATICALLY. SEE ALSO WYATT v. ANDERSON, 501974 503 F.2d 1305, WYATT v. STICKNEY, MD ALK 1974, 344 F.Supp 373, 344 F.Supp 357, 344 P.Supp 1341, US v. FAUCETT, 491 F.2d 352, YOUNGBURG v. RENCE AT 359 N. 25 (DIFFERENT PATIENTS HAVE DIFFERENT LIBERTY INTERESTS AND REQUIRE DIFFERENT LEVELS OF TREATMENT) SEE RENNIE v. KLEIN, 1978 462 F.Supp 1131, 476 F.Supp 1209, 653 F.2d 536, TROP v. WILCOX, 1953, 306 US 84 (LABELING SOMETHING A "TREATMENT" DOES NOT IPSE FACTO MAKE IT A TREATMENT AND NOT A PUNISHMENT) "CORRECTIVE THERAPY" FOR THE MENTALLY ILL IN THE BOP, IS THE SAME AS DISCIPLINARY SEPARATION WITHOUT PUNISHMENT. SEE LANDMAN v. REPETTO, 1971, 335 F.Supp 421, 354 F.Supp 1292, 354 F.Supp 1302; MONTAGUE v. ITAY 403, 1976, 427 US 215 (TREATMENT CANNOT BE HARSH OR OPPRESSIVE)

8. THE BOP EMPLOYEES VIOLATE THE "ALL-WHEN" PRINCIPLES OF 18 USC 4243(p). THE BOP MUST MAKE "ALL" REASONABLE EFFORTS TO CAUSE THE STATE TO ASSUME RESPONSIBILITY. THE BOP MAKES ONE ATTEMPT PER YEAR. "WHEN" THE PATIENT IS NO LONGER MENTALLY ILL, THE DIRECTOR MUST IMMEDIATELY NOTIFY THE COURTS. THE BOP WAITS UNTIL THE ANNUAL REPORT IS DUE

9. EVEN THOUGH THE INSURITY ACQUITTED HAS BEEN GIVEN ABSOLUTION FOR HIS CRIMES, THE BOP ALWAYS (NO MATTER HOW MANY YEARS PASS) USE THE CRIME TO KEEP A PERSON INCARCERATED, THAT VIOLATES DOUBLE JEOPARDY, ITS JUDICATE, AND CONSTITUTIONAL RIGHTS. IT CANNOT THE PROBABILISTIC PREDICTION THE PERSON WILL NEVER BE RELEASED (LEONARD STERNIK, 601 F.2d 986, 986 P.2d 506) SEE COXINGTON V. HARRIS, 1969, 419 F.2d 617 (THERE COMES A TIME WHEN THE CRIME MUST BE PUT ASIDE WHEN DETERMINING A RELEASE) MILLARD V. HARRIS, 1968, 406 F.2d 964 (THE FURTHER THE DISTANCE IN TIME BETWEEN THE CRIME AND THE EVALUATION, THE LESS THE CRIME CAN BE USED) CLARK V. DEAN, 1971, 234 So.2d 114, 413 F.2d 503, 422 U.S. 563 (25 YEARS OUTSTANDING) EACH TIME PHILIPS IS INTERVIEWED, THE CRIME IS AT ISSUE EVEN THOUGH THE GOVERNMENT ADMITS PHILIPS DID NOT COMMIT A CRIME.

10. THE DOCTORS DO NOT USE THE "CLINICAL SURVEY" APPROACH TO MAKING A DIAGNOSIS (SEE US V. KROSKY, 401 F.2d 414) BUT RELY ENTIRELY ON "THE RECORD" (DIAGNOSIS BASED BY PREVIOUS DECISIONS IN YEARS PAST)

(A) WHEN PHILIPS ARRIVED AT FMC-DALLAS, DR. HARRIS DIAGNOSED PHILIPS AS "PERMANENTLY SCHIZOPHRENIC". THE MERCURY REGISTER STAMPED THE DIAGNOSIS OF THE 1985 TRIAL DOCTORS FROM THE RECORD. THAT IS PLAIN ERROR BECAUSE THE TRIAL DOCTORS MADE A DIAGNOSIS ON PHILIPS CLAIM OF BEING FORCED IN A INTERNATIONAL TOW CONSPIRACY. BUT IN 1972 THE CLAIM WAS FOUND TO BE TRUE - SO THE TRIAL DOCTORS DIAGNOSED WAS ESTABLISHED YET BOP DOCTORS ALWAYS RUBBER STAMP THAT DIAGNOSIS WITHOUT MAKING ANY INDEPENDENT EVALUATION WITHOUT THE RECORD

11. THE BOP STAFF FLAGRANTLY VIOLATE THEIR OWN RULES THAT THREATS MENTAL PATIENTS, SEE PETITION OF STATE POLICE, 1985, 489 A.2d 103 (EMPLOYEES MUST FOLLOW AGENCY RULES) MURPHY V. US, 1991, 558 A.2d 425 (DEPARTMENT BOUND BY RULES OF AGENCY) GAUSDE V. US, 1991, 113 A.2d 335, 835 F.2d 1284

Policy statement 6000 et seq. DETERMINES THE CARE AND TREATMENT OF MENTAL PATIENTS AND 48 CFR 541 DETERMINES DISCIPLINE OF CONFINED PRISONERS THE BOP PROVIDES CIVIL PATIENTS AS CONFINED PRISONERS ARE PROVIDED WITHOUT ANY RESPECT TO THEIR MENTAL STATUS (SEE LANDRUM V. ROYAL, 1971, 333 F.Supp 621, 354 F.Supp 1212, 354 F.Supp 1302 (ROOMS MUST BE THOSE OF A MENTAL HOSPITAL NOT A PRISON); TYLER V. CLEGG, 1976, 499 F.Supp 684 (SAME))

THE EMPLOYEES OF THE BOP VIOLATE THE RULES GOVERNING FEDERAL EMPLOYEES CONDUCT AND RESPONSIBILITIES (BOP POLICY 3604.03 AND 3620.6)

(A) FOR EXAMPLE ALL EMPLOYEES MUST DISPLAY NAME IDENTIFICATION TAGS ON THEIR CLOTHING AND MUST REVEAL THEIR NAMES TO INMATES UPON REQUEST.

(1) EMPLOYEES DO NOT WEAR NAME PLATES BUT WHEN THEY DO, THEY CONCEAL IT SO INMATES CANNOT SEE THE NAME

(2) EMPLOYEES EITHER REFUSE TO DISCLOSE THEIR NAMES OR GIVE ONLY A LAST NAME (IN INSTANT OR ANY OTHER CASE: I SAW ONE INMATE COMPLAIN TO THE GUARD ABOUT OFFICER "SMITH" WHEN THERE ARE 6 "SMITHS" AND GUARD WILL REVEAL A FIRST NAME OR INITIAL?)

(B) EMPLOYEES ARE PROHIBITED FROM ABUSING OR DISRESPECTING INMATES (ESPECIALLY THE MENTALLY ILL) BUT EMPLOYEES DISOBEY THE FEDERAL EMPLOYEES CONDUCT RULES.

(1) EMPLOYEES ABUSE THE MENTALLY ILL FREQUENTLY BECAUSE THE MENTALLY ILL NEVER COMPLAIN. THEY ARE SO ILL THEY DON'T KNOW THEIR RIGHTS ARE BEING VIOLATED OR THEY THINK THEY MUST HAVE DONE SOMETHING TO DESERVE THE ABUSE BUT DON'T KNOW WHY. EMPLOYEES TAKE ADVANTAGE OF THIS CONDITION TO VENT THEIR OWN FRUSTRATIONS. WHEN PATIENTS DO COMPLAIN, THE COMPLAINT IS VIEWED AS A PRODUCT OF THE MENTAL ILLNESS RATHER THAN A LEGITIMATE COMPLAINT.

THERE IS NO ADVOCATE FOR THE MENTALLY ILL AS REQUIRED BY 42 USC 10843 ^{42 USC 10843} 42 USC 10841.

(C) THE EMPLOYEES DO NOT EXERCISE PROFESSIONAL JUDGMENT (SHAW V. STARK HOUSE, 1970, 420 F.2 1135; HOLLANDER V. REMBO, 1981, 457 US 307)

THE BOP STAFF ARE NOT TRAINED IN THE CARE AND TREATMENT OF THE MENTALLY ILL. THEY ARE TRAINED ONLY IN PRISONERY AND ANY MENTAL HEALTH SKILLS OR CONCERNS ARE PROVIDED UPON BY THE BOP, OFFICER, DOCTORS, NURSES, NEVER INTERACT WITH MENTAL PATIENTS EXCEPT AT A FIXED SCHEDULED APPOINTMENT. THE STAFF LOCK THEMSELVES IN THE OFFICE, PLAY CARDS, WATCH TV ON THE INTERNET, PLAY VIDEO GAMES, SOCIALIZE, ETC BUT NEVER TALK TO INMATES - NEVER INTERACT WITH INMATES - IT IS A BOP POLICY.

- THEY SEIZE PROPERTY OF INMATES WITHOUT GIVING A RECEIPT (IN VIOLATION OF RULES)
- THEY MAKE UP THEIR OWN RULES OR A MIXTURE OF THEIR CORRECT MOODS
- THEY VIEW MENTAL PATIENTS AS SUB-SPECIES AND COMMUNICATE THAT ATTITUDE
- THEY MAKE FALSE REPORTS AND ACCUSATIONS AGAINST INMATES
- THEY INTIMIDATE, COERCE, AND THREATEN MENTAL PATIENTS
- THEY RETRIBUTIVE AGAINST MENTAL PATIENTS WITH VINDICTIVENESS (AT THE APPROVAL OF SUPERVISORY STAFF)
- THEY ENJOY ABSOLUTE CONTROL AND DEMAND INSTANT OBEDIENCE AND SUBMISSION OF ALL MENTAL PATIENTS. NO PATIENT CAN EXPRESS INDIVIDUALISM OR AUTONOMY.
- THERE ARE NO DIVERSIONING ACTIVITIES FOR MENTAL PATIENTS - NO CHAIRS - NO RECREATION - EXERCISE IS 1 HOUR PER WEEK - IF THE "THERAPIST" IS AVAILABLE. THERE ARE 3 TELEVISIONS BLASTING ON 3 DIFFERENT CHANNELS (BUT RULES REQUIRE T.V.'S NOT TO HAVE SPOTS TO MAINTAIN ORDER AND QUIET) (PLACING THE BLASTING IS THE REALITY)
- BEHAVIOR CONTROL IS LEFT TO THE INMATES TO OBTAIN A "PICKING ORDER"
- INMATES ARE UNREPROVED - NO PSYCHOLOGICAL TREATMENT
- NO MATTER WHAT MENTAL STATUS (OR THE CRIME) OF INMATES NOT SENT TO DEWETS FOR MENTAL REASONS - THEY GO DIRECTLY TO OPEN POPULATION. BUT FOR INMATES WITH MENTAL LABEL, THEY GO TO MAXIMUM SECURITY REGARDLESS OF THE TYPE OF CRIME AND REGARDLESS OF THE ACTUAL MENTAL STATUS (THIS VIOLATE THE LEAST RESTRICTIVE SETTING PRINCIPLE (YOUXIAOUE AT 324) JOHNSON & JOHNSON, D.M.M. 1979, 484 P 200-278)

- INMATES ARE NOT PROVIDED WITH PROPER HYGIENE SUPPLIES OR ADEQUATE BEDDING
- RULES REQUIRING 'COUNT TIME' BUT STAFF IGNORE RULES
- COUNT TIME IS MANDATORY IN PRISONS BUT NOT IN MENTAL HOSPITALS. THE BOP REQUESTS ONLY ONE STIMULANT OF COCAINE - THE FARC OFFICERS REQUEST 3 PER DAY.
- ONLY FLASHLIGHTS ARE SUPPOSED TO BE USED AT NIGHT FOR COUNTS (RULE) BUT OFFICERS AND NURSES TURN ON THE ROOM LIGHTS OF INMATES ROOMS TO AWAKEN THE INMATE TO MAKE THEM MOVE HIS BODY. THIS IS COGNITIVE THERAPY TO "PATIENTS" BUT IS PUNISHMENT AT "PRISONS." (ALSO - OFFICERS LEAVE THE LIGHTS ON - SWITCH IS OUTSIDE OF ROOM)
- MENTAL PATIENT MUST GET THEIR MEALS WITHIN 22 MINUTES (INCLUDING THE TIME IT TAKES TO GO TO THE DINING ROOM, WAIT IN LINE TO GET THE FOOD, AND TURN IN THE TRAY TO THE WASH ROOM).
- PROPERTY PURCHASED AT ANOTHER INSTITUTION IS NOT ALLOWED AT DEWEN IF IT IS NOT SOLD AT DEWEN'S. PROPERTY IS DESTROYED WITHOUT COMPENSATION OR DUE PROCESS.
- THE MAIL OF CIVIL PATIENTS ARE TREATED AS THE MAIL FOR SENTENCED PRISONERS AND TREATED
 - (1) MAIL FROM THE COURTS ARE NOT CONSIDERED LEGAL MAIL AND IS READ BY STAFF
- RULES FOR MENTAL PATIENTS ARE ARBITRARY:
 - (1) NO STAPLES ALLOWED - MAIL ROOM SENDS MAIL WITH ENVELOPES STAPLED
 - (2) STAFF SENDS MEMOS (TO INMATES) WITH STAPLES
- INMATES CANNOT TOUCH CLEANING SUPPLIES - BUT ARE REQUIRED TO CLEAN THEIR ROOMS
- WASHING POWDER (TINE) CANNOT GET INTO BUCKET - BUT USE BUCKET TO CLEAN TOILET
- NO CONFIDENTIALITY IN COMMUNICATION TO STAFF OR OTHERS
 - (1) UNIT OFFICERS READ INCOMING AND OUTGOING MAIL AND MEMOS CONTRARY TO BOP RULES
- CIVIL PATIENTS CANNOT MAKE PHONE CALLS DURING DAY HOURS

12. SUPERVISORY STAFF AT FMC-DEVENS FAIL TO PROPERLY AND ADEQUATELY TRAIN AND TO SUPERVISE SUBORDINATES. THERE IS NO ROUTINE TRAINING OF MENTAL HEALTH STAFF IN THE DAY-TO-DAY CARE AND TREATMENT OF MENTAL PATIENTS, THUSLY MENTAL PATIENTS ARE EITHER IGNORED WITH INDIFFERENCE OR ABUSED AND MISTREATED.

SUPERVISORS ARE LIABLE FOR THE DEPRIVATION AND VIOLATION OF RIGHTS CAUSED BY THEIR SUBORDINATES. SEE MCLELLAND V FORTAU, 1001979, 610 F.2d 693 AT 696; YBARRA V RENE THUNDERBIRD, 901984, 723 F.2d 675 AT 680-681; WAUGER V BENNER, 501980, 621 F.2d 675 AT 679; BOARD OF COUNTY COMMISSIONERS V BROWN, 1997, 520 US 547 AT 409-411; CITY OF CHICAGO V HARRIS, 1989, 489 US 578 AT 388; ATCOKO V FELIX, 901991, 913 F.2d 744)

MENTAL HEALTH STAFF MUST HAVE EXTRA TRAINING AND CLOSER SUPERVISION (MORAN V DC, 1958, 603 F.2d 254, AFF 824 F.2d 1019). A WARDEN HAS A DUTY TO INSURE THAT THE STAFF IS PROPERLY TRAINED (JOHNSON V LOCKHART, 801971, 763 F.2d 326, 941 F.2d 705)

PHILIPS HAS SUFFERED INJURY BECAUSE OF THE FAILURE TO TRAIN AND SUPERVISE STAFF.

13. THE EMPLOYEES AT FMC-DEVENS (AND AT ALL BOP PRISONS) ARE ACTING IN CLEAR ABSENCE OF ALL JURISDICTION AND AUTHORITY IN THE CUSTODY, CONFINEMENT, CARE, AND TREATMENT OF PHILIPS

(A) 18 USC 4001(c) STATES NO CITIZEN SHALL BE DETAINED OR IMPRISONED WITHOUT STATUTORY AUTHORITY.

VII

CAUSES OF ACTION

FIRST CAUSE OF ACTION

DAVID WILSON IS SOED FOR ESTABLISHING RULES CONTRARY TO BOP RULES, FOR NOT MIXING RULES SPECIFIC TO CIVIL MENTAL PATIENTS, FOR CONSIDERING AN APPROPRIATE CONTROL ACTIVITIES OF SUBORDINATES

AND FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE HIS SUBORDINATES, THAT CAUSED PHELPS IRREPARABLE INJURY.

SECOND CAUSE OF ACTION:

MIKE BOLLINGER, JAMES DOLD, S. THOMPSON, AND S. HARVEY ARE SUED FOR FAILING TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE THEIR SUBORDINATES IN THE CARE AND TREATMENT OF THE MENTALLY ILL, THE LEARNING OF BOP RULES, AND THE RIGHTS OF INMATES. THEY HAVE FAILED TO PROPERLY AND ADEQUATELY TRAIN THEIR SUBORDINATES IN DISTINGUISHING THE DIFFERENCE IN CIVIL COMMITMENTS (CIVIL PATIENTS) AND CONVICTED PRISONERS AND HAVE FAILED TO PROTECT THE RIGHTS OF CIVIL PATIENTS, AND FOR ALLOWING SUBORDINATES TO TREAT CIVIL PATIENTS AS CRIMINAL PRISONERS.

THIRD CAUSE OF ACTION:

RUFEN PHELPS ARRIVED AT FMC-DEVERS, HE WAS INTERVIEWED BY SEVERAL BOP EMPLOYEES AND WAS EVALUATED BY RESPONDENT H. HAMS WITH AETER IN CLEAR AWARENESS OF ALL INDICATIONS TO CONFINE PHELPS (AUTOMATICALLY) IN MAXIMUM SECURITY IN VIOLATION OF THE 4th AMENDMENT (UNREASONABLE SEIZURE) AND 8th AMENDMENT (CRUEL AND UNUSUAL PUNISHMENTS - MORE APPLICABLE THROUGH THE 5th AMENDMENT BECAUSE PHELPS IS A CIVIL PATIENT) AND THE 9th AMENDMENT (COMMON LAW) AS WELL AS VIOLATING THE AMERICAN WITH DISABILITIES ACT, AND BOP RULES, IS USC 4081.

HAMS DEPARTED FROM THE STANDARDS OF HIS PROFESSION AND DID NOT EXERCISE PROFESSIONAL JUDGMENT BY NOT MAKING AN INDEPENDENT EVALUATION AND DIAGNOSIS BUT MERELY REBBER STATED THE OPINION OF PREVIOUS

EXAMINERS WITH A TOTAL INDIFFERENCE AND DISREGARD AS TO THE ACCURACY OF THE RECORD. HARRIS HAS TAKEN A OATH TO UPHOLD AND DEFEND THE U.S. CONSTITUTION AND THE LAWS OF THE UNITED STATES SO HE KNOWS THE LAWS, AND UNDERSTAND THE LAWS, BUT STILL ACTED CONTRARY TO THE LAWS. PHELPS WAS LUCID, RATIONAL, COMPLIANT, AND FRIENDLY YET WAS TAKEN TO MAXIMUM SECURITY AND PLACED IN A LOCKED ROOM AT THE ORDERS OF HARRIS. HARRIS VIOLATED 28 CFR 54.1 et seq, BOP POLICY 6000 et seq, BOP POLICY 3604.03 ^{3610.06} et seq, YOUNGBERG V. ROSEN, 1982, 457 US 307 AND DESHANEY V. WINNEBAGO, 1989, 439 US 189 AND ROCHIN V. CALIFORNIA, 1952, 342 US 165

FOURTH CASE OF ACTION:

RESPONDENT J. FLETCHER VIOLATED BOP RULE ^{3610.06} 3604.03 AND DEPARTED FROM THE STANDARDS OF HIS PROFESSION (UNKNOWN TYPE OF DOCTOR) AND DID NOT EXERCISE PROFESSIONAL JUDGMENT BY PERFORMING THE DUTIES RELEGATED TO A CORRECTIONAL OFFICER (ACTING LIKE A COP) WHEN HE THREATENED TO PUT PHELPS IN DISCIPLINARY SEGREGATION FOR MERELY DISAGREEING WITH HIM. "I KNOW MORE ABOUT BOP RULES THAN YOU" HE SAID. "WHAT BET?" PHELPS SAID. THEN FLETCHER THREATENED TO PUT PHELPS "IN THE HOLE (N-1)" FOR DISAGREEING WITH HIM. PHELPS HAD NOT VIOLATED ANY RULES NOR WAS HE DISORDERLY OR DISRUPTIVE. IT UPSET PHELPS VERY MUCH TO REALIZE THAT EVEN THE DOCTORS DISREGARD THE RULES OF CONDUCT AND CARELESSLY VIOLATE OTHER RULES AND THE RIGHTS OF THE MENTALLY ILL BY ACTING ARBITRARILY, CAPRICIOUSLY, AND UNDISCERNINGLY.

FIFTH CAUSE OF ACTION:

RESPONDENT J. DAULS ACTED IN CLEAR ABSENCE OF ALL JURISDICTION WHEN HE VIOLATED BOP RULE ^{3604.03} 3604.03 BY SCREAMING AND YELLING AT PHELPS IN A THREATENING, HOSTILE, AND MENACING MANNER JUST AFTER PHELPS HAD COMPLETED A CONVERSATION WITH DR. RIGGS (WHO WAS STILL PRESENT AS A WITNESS). DAULS IS A MALE NURSE AND KNOWS THAT HIS ACTIONS ARE A DEPARTURE FROM THE STANDARDS OF HIS PROFESSION BUT HE ACTED ANYWAY HE CAUSE PHELPS TO FEAR FOR HIS SAFETY (BEING 71 YEARS OLD). PHELPS IS A HEART ATTACK RISK PATIENT AS WELL AS HAVING 2 STAPLES (BECAUSE TWO OFFICERS HANDCUFFED HIS ARMS BEHIND HIS BACK AND BEAT HIM WITH FISTS, FOOT, AND METAL FLASHLIGHTS BECAUSE THE AREA OUTSIDE HIS ROOM WAS "UNTIDY").

SIXTH CAUSE OF ACTION:

RESPONDENT B. PUTOLICCHIO ACTED IN ABSENCE OF ALL JURISDICTION AND VIOLATED FEDERAL REGULATION 28 CFR 541.21 Seq., BOP POLICY ^{3604.03} 3604.03, 18 USC 1001 AND OTHER FEDERAL LAWS WHEN HE (WITH COMPLETE INDIFFERENCE TO THE STATUS OR CONDITION OF PHELPS) ASSAULTED PHELPS, MADE FALSE CHARGES AGAINST PHELPS, MADE A FRAUDULENT WRITTEN INCIDENT REPORT ON PHELPS THAT CAUSED PHELPS TO BE PLACED IN DISCIPLINARY DETENTION FOR A WEEK. PUTOLICCHIO ALSO VIOLATED PHELPS RIGHTS UNDER THE 4th, 5th, 8th, AND 9th AMENDMENTS TO THE U.S. CONSTITUTION.

ON 11-23-04 AT APPROXIMATELY 10:30PM PHELPS WENT TO THE OFFICERS STATION ON UNIT N-3 TO GIVE PUTOLICCHIO A CONFIDENTIAL MEMO ADDRESSED TO COMEXOR K. LEONARD INFORMING LEONARD THAT THE STAFF ON N-3 WERE IN VIOLATION

OF FEDERAL LAWS AND BOP RULES IN THE CARE AND TREATMENT OF THE DISABLED MENTALLY ILL. POTOLICCHIO OPENED THE MEMO (VIOLATION OF BOP RULES) AND READ THE MEMO (VIOLATING ANOTHER RULE) AND QUESTIONED PHELPS AS TO THE CONTENT OF THE MEMO (VIOLATING THE 1ST AMENDMENT AND ANOTHER B.O.P. RULE). POTOLICCHIO BECAME HOSTILE AND ANGRY AND SCREAMED FOR PHELPS TO GET OUT OF THE OFFICE, AND PHELPS COMPLIED;

WHEN PHELPS WAS OUTSIDE OF THE THRESHOLD OF THE DOOR, HE TURNED AND SAID "YOU'RE NOT WEARING A NAME TAG (A VIOLATION OF BOP RULES)* WHAT IS YOUR NAME OFFICER?" "DON'T WORRY ABOUT MY NAME" HE SCREAMED AS HE STOOD AND APPARENTLY PHELPS MENTALLY (POTOLICCHIO IS ABOUT 6'4" TALL AND WEIGHS OVER 250 POUNDS AND IS 40 YEARS YOUNGER THAN PHELPS) PHELPS ASK "ARE YOU REFUSING TO GIVE ME YOUR NAME? THAT'S AGAINST BOP RULES." HE SCREAMED "GET-AWAY-FROM-MY-OFFICE." PHELPS COMPLIED AND WALKED ABOUT LOOKING AT THE PICTURES ON THE WALLS, THE CLOCK IN THE OFFICE, ETC. (PHELPS WAS WAITING FOR THE INMATE TELEPHONE TO MAKE A CALL TO CALIFORNIA)

PHELPS APPARENTLY A CLEANING CART THAT HAD AUTHORIZED SUPPLIES ETC. IF FOR INMATES TO CLEAN THEIR ROOMS. IT WAS PARKED IN THE HALLWAY OUTSIDE THE OFFICE. SUDDENLY POTOLICCHIO LEAPED FROM HIS CHAIR AND STARTED SCREAMING FOR PHELPS TO GET INSIDE THE OFFICE. PHELPS WALKED IN. "WHAT DID YOU TAKE OFF THAT CART AND PUT IN YOUR POCKET?" HE SCREAMED ANYWAY OUT OF CONTROL. "I DIDN'T PUT ANYTHING IN MY FUCKIN' POCKET" PHELPS SAID. POTOLICCHIO SEARCHED PHELPS AND FOUND NOTHING.

"GET AGAINST THE DOOR" HE YELLED, THEN QUICKLY CHANGED HIS MIND AND TOOK PHELPS IN THE HALLWAY. "GET AGAINST THAT WALL" HE SCREAMED, THEN QUICKLY CHANGED HIS MIND AGAIN AND YELLED FOR PHELPS TO GO TO THE OTHERSIDE OF THE HALLWAY

* NOT ONLY DOES STAFF NOT WEAR NAME TAGS, NO OFFICE HAS THE NAME OF THE STAFF ON IT. TO FIND A OFFICE IS JUST A GUESSING GAME. BOP RULES STATE ALL OFFICES WILL BE IDENTIFIABLE.

TO LEAN AGAINST THE WALL WITH HIS HANDS ABOVE HIS HEAD AND HIS FEET APART.*

PHELPS COMPLIED WITH THE ORDER BUT POTO LICCHIO WAS NOT SATISFIED WITH THE DISTANCE BETWEEN PHELPS' FEET AND YELLED TO MOVE THE FEET FURTHER APART. "I CAN'T" PHELPS SAID, "THAT'S AS FAR AS I CAN GO. I HAVE A SPINAL INJURY." POTO LICCHIO BECAME MORE OUT OF CONTROL AND SCREAMED FOR PHELPS TO MOVE HIS FEET APART AND SIMULTANEOUSLY KICKING THE RIGHT LEG OF PHELPS KNOCKING HIS LEG ABOUT 6 INCHES FURTHER APART. PHELPS IMMEDIATELY FELT SEVERE PAIN IN HIS BACK, SPINE, AND LEGS AND GROANED IN PAIN.

POTO LICCHIO WAS COMPLETELY INDIFFERENT AND YELLED "I TOLD YOU TO GET THOSE FEET APART."

THEN THE RIGHT ARM OF PHELPS FELL FROM THE WALL TO HIS SIDE. "GET THAT ARM UP" POTO LICCHIO SCREAMED. "I CAN'T DO THIS FOR LONG" PHELPS SAID, "I HAVE MEDICAL PROBLEMS. I'VE HAD A HEART ATTACK AND IF I KEEP MY HANDS ABOVE MY HEAD, I'LL PASS OUT. I'VE HAD 2 STRIKES AND I CAN'T HOLD MY RIGHT ARM UP THIS LONG." POTO LICCHIO WAS CALLOUSLY INDIFFERENT AND TOOK THE RIGHT ARM OF PHELPS AND SLAMMED IT AGAINST THE WALL YELLING "GET - THAT - ARM - ON - THE - WALL."

HE WENT BACK TO THE OFFICE AND TOLD NURSE W. BLAZON "I'M GOING TO LOOK HIM UP. I DON'T LIKE HIM." HE MADE TWO PHONE CALLS AND RETURNED. "WHY DID YOU CUSS ME?" HE YELLED. "WHAT ARE YOU TALKING ABOUT?" PHELPS ASK. "YOU JUST CUSSED ME" HE YELLED, "I HEARD YOU." "YOU WERE NOT EVEN HERE" PHELPS SAID "HOW COULD I CUSS YOU IF YOU'RE NOT HERE" POTO LICCHIO STAMMERED "YEH - WELL --- YEH - WELL --- YEH - WELL."

PHELPS' RIGHT ARM FELL AGAIN, BUT AT THE SAME TIME OTHER OFFICERS ARRIVED TO ESCORT PHELPS TO DISCIPLINARY DETENTION.

* PHELPS WAS NOT SCREAMED WHILE AGAINST THE WALL. THE ACTION WAS JUST SPITEFUL PUNISHMENT

POTOLICCHIO THEN TOOK THE MEMOS PHELPS HAD WRITTEN TO COUNSELOR LEONARD AND SPITEFULLY DESTROYED THEM. HE WENT TO PHELPS' ROOM AND TOOK PHELPS' PROPERTY AND DESTROYED THE PROPERTY SPITEFULLY AND VINDICTIVELY.

THE NEXT DAY A OFFICER SHOWED A PINK SHEET OF PAPER UNDER THE DOOR WITHOUT SAYING WHAT IT WAS OR WHAT WAS WRITTEN ON IT AND PHELPS COULD NOT READ IT BECAUSE HIS EYE GLASSES WERE SEIZED (AS IT TURNED OUT IT WAS A COPY OF THE INCIDENT REPORT. THE BOP RULES REQUIRE THE REPORT TO BE GIVEN TO THE INMATE WITHIN 24 HOURS AND IF THE INMATE CAN'T READ IT, IT MUST BE READ TO HIM. IT WAS NOT. PHELPS ARGUES THAT IF HE IS GIVEN A DOCUMENT HE CAN'T READ AND IT IS NOT READ TO HIM, IT IS THE SAME AS NOT GETTING THE DOCUMENT AT ALL AND IS A DENIAL OF DUE PROCESS AND VIOLATES BOP RULES)

A WEEK LATER PHELPS HAD A DISCIPLINARY HEARING (3 DAYS OVER THE TIME LIMIT TO HOLD A HEARING) AND THE HEARING OFFICER DISMISSED THE CHARGES AS BEING PATENTLY FALSE. "WHEN I FIRST READ THIS REPORT" THE HEARING OFFICER SAID, "I COULD EASILY SEE SOMETHING WAS WRONG WITH IT. IT DIDN'T MAKE SENSE."

POTOLICCHIO LIED IN THE REPORT; HE FILED A FALSE REPORT, AND HE CAUSED PHELPS TO SUFFER IRREPARABLE INJURY AND SUFFERING.

SEVENTH CAUSE OF ACTION:

RESPONDENT W. BLAZON ACTED IN CONSPIRACY WITH POTOLICCHIO TO MAKE FALSE CHARGES. SHE ENCOURAGED HIM AND ADVISED HIM. SHE ACTED IN CONCERT AND JOINTLY PARTICIPATED IN THE VIOLATION OF THE RIGHTS OF PHELPS. BOP RULES AND FEDERAL REGULATIONS REQUIRES EMPLOYEES TO INTERVENE WHEN OFFICERS ARE VIOLATING THE RIGHTS OF INMATES AND TO IMMEDIATELY REPORT THE

OFFENDING OFFICER TO SUPERVISORS. SHE DID NOT INTERFERE AND DID NOT REPORT THE ABUSE, ASSAULT, OR VIOLATIONS. SHE FAILED TO EXERCISE PROFESSIONAL JUDGEMENT.

SHE IS THE NURSE FOR THE UNIT AND IS FAMILIAR WITH THE MEDICAL STATUS AND CONDITION OF PHELPS, BUT STILL DID NOT STOP POTOLICCHIO. SHE KNOWS THAT PHELPS IS A CIVIL PATIENT AND KNOWS THAT MENTAL PATIENTS HAVE RIGHTS EXCEEDING THE RIGHTS OF PRISONERS, AND OTHERS, YET SHE DID NOTHING TO STOP THE ASSAULT AND ABUSE. SHE AND POTOLICCHIO VIOLATED 18 USC 241-242 (CIVIL RIGHTS), 18 USC 1621 et seq (PERJURY) AND OTHER FEDERAL LAWS.

BLAZON AND POTOLICCHIO HAD BEEN PLAYING CARD GAMES FOR ABOUT 2 HOURS PRIOR TO THE INCIDENT. THEY NOT ONLY APPEARED TO BECOME INCREASINGLY "FRIENDLY" BUT ALSO BECAME HOSTILE WHEN PHELPS INTERRUPTED THEIR GAMES TO HAND HIM THE MEMO. PHELPS TOLD THE DISCIPLINARY OFFICER, "YOU KNOW WHAT THIS IS ALL ABOUT? POTOLICCHIO JUST WANTED TO IMPRESS A FEMALE WITH HIS MACHISMO AND POWER. THAT'S WHAT THIS IS ALL ABOUT - TRYING TO IMPRESS A FEMALE, BUT ALL HE SUCCEEDED IN DOING WAS TO PROVE HE HAS A CHILDISH INFANTILE MIND WITH THE INABILITY TO MAKE CORRECT DECISIONS AND UNABLE TO CONTROL HIS EMOTIONS. THE HEARING OFFICERS AGREED AND DISMISSED THE CHARGES SAYING "STAY OUT OF TROUBLE."

EIGHTH CASE OF ACTION

UNDER THE "INDIVIDUALIZED TREATMENT" OF 18 USC 4081, AND THE "NATURE OF THE CHARACTER" OF 18 USC 4247(C), AND UNDER THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT, AND UNDER THE MENTALLY ILL BILL OF RIGHTS (42 USC 10841) PHELPS MADE A REQUEST FOR A SINGLE ROOM, IN OPEN

POPULATION IN THE LEAST RESTRICTIVE SETTING NOT ONLY BECAUSE OF HIS AGE (71) AND MEDICAL INFORMATION, RESTRICTIONS, AND LIMITATIONS (STROKE, HEART ATTACK RISK, ARTERITIS, AND OTHERS) BUT ALSO FOR SAFETY AND SECURITY THAT PREVENTS HOSTILE CONSPIRATIONS WITH OTHERS WHO DO NOT SHARE THE SAME RELIGIOUS BELIEFS AND FINDS HIS BELIEFS OFFENSIVE AND UNACCEPTABLE TO SUCH A DEGREE THAT THEY BECOME COMBATIVE. PHILIPS DOES NOT PROSELYTIZE HIS RELIGION NOR DOES HE RECRUIT CONVERTS, HOWEVER OTHER INMATES KNOW HIS IDEOLOGIES. HOW?

AT HIS ~~PREVIOUS~~ ^{PREVIOUS} PRISON, INMATES WOULD DISCOVER CASES OF PHILIPS PUBLISHED IN THE LAW BOOKS AND THEN PHOTOCOPY SEVERAL COPIES OF THE CASE AND THEN DISTRIBUTE THE PHOTOCOPIES TO OTHER INMATES WITH THE SILE INTENT AND SCHEDULE TO CAUSE PHILIPS TO SUFFER IN SOME WAY. THE COPIES WERE ALSO GIVEN TO SELECTED STAFF MEMBERS. MOSTLY PHILIPS SUFFERED HARASSMENTS, OSTRACISM, AND SNIDE REMARKS AND IDLE THREATS OR VEILED THREATS. BUT HE ALSO SUFFERED IN OTHER WAYS. BLACK INMATES WOULD FALSELY REPORT THAT PHILIPS CALLED THEM A "NIGGER" OR SOMETHING DEROGATORY JUST TO GET PHILIPS PUT IN THE HOLE OR MOVED TO ANOTHER UNIT.

AT HIS PREVIOUS PRISON, A INMATE DISTRIBUTED COPIES OF CASES TO OTHER BLACK INMATES AND STAFF. HE WAS IMMEDIATELY TRANSFERRED TO ANOTHER PRISON FOR ENDANGERING THE LIFE OF ANOTHER INMATE AND FOR INTERFERING WITH THE THERAPY AND TREATMENT PROGRAM OF OTHERS.

TWO DAYS AFTER PHILIPS ARRIVED AT FMC-DEVENS HE PASSED A GROUP OF BLACK INMATES. ONE BLACK INMATE REMARKED TO THE OTHERS "THERE'S THAT ¹BLACK N---F---" (INDICATING PHILIPS). PHILIPS HAD NEVER SEEN THEM BEFORE AND HE IGNORED THE REMARKS, HOW DID THEY KNOW?

PIHELPS WENT TO THE DINING ROOM AND IN THE DINING ROOM WAS THE SAME BLACK INMATE THAT HAD BEEN TRANSFERRED FROM BUTNER. THEY ALL LIVED IN THE MENTAL HEALTH UNITS.

COUNSELOR LEONARD REFUSED TO ASSIGN PIHELPS TO A SINGLE ROOM NOTWITHSTANDING THE FACTS OF ELIGIBILITY. ACCORDING TO BOP RULES IT IS THE COUNSELOR WHO ASSIGNS ROOMS AND HE DOES THAT ARBITRARILY WITHOUT SCREENING OR EVALUATING INMATES FOR COMPATIBILITY OR INDIVIDUAL NEEDS. WHATEVER BED IS VACANT IS WHERE THE INMATE GOES. HE VIOLATES THE TERMS OF 18 USC 4081 (INDIVIDUALIZED TREATMENT) AND 18 USC 4247(c) (ACCORDING TO THE CHARACTER OF THE INMATE) ~~AND~~ HE ALSO VIOLATES DESHANEY V WINNERSBAGO, 1982, 459 US 189.

BUT TO KEEP PIHELPS LOCKED IN MAXIMUM SECURITY OR IN A SEMI LOCKED UNIT VIOLATES THE LEAST RESTRICTIVE SETTING REQUIREMENTS OF THE SUPREME COURT.

(REMEMBERING THAT PIHELPS IS A CIVIL PATIENT AND NOT A CRIMINAL PRISONER, SO THE COURTS MUST EXTEND PATIENTS RIGHTS - NOT PRISONERS RIGHTS. SEE ROMER V YOUNGBERG, 1991, 644 F.2d — (COURTS CANNOT USE CASE LAW DECISIONS FOR CONFINED PRISONERS TO BE APPLIED TO CIVIL COMMITMENTS) AFFIRMED IN YOUNGBERG V ROMER, 1992, 457 US 307.

NINTH CAUSE OF ACTION.

PIHELPS IS DENIED HIS 1ST AMENDMENT RIGHT TO PETITION THE COURTS (DENIAL OF ACCESS TO THE COURTS).

TAKEN LITERALLY, PIHELPS IS NOT DENIED "ACCESS TO THE COURTS." HE IS DENIED MEANINGFUL ACCESS TO THE COURTS.

THE RULES (ESTABLISHED BY WARDEN WINK) PROHIBITS PIHELPS FROM LEAVING UNIT N-3 EXCEPT TO GO TO THE DINING ROOM FOR MEALS. HE CANNOT GO

TO THE LAW LIBRARY TO CONDUCT LEGAL RESEARCH IN ORDER TO PREPARE DOCUMENTS FOR THE COURTS AND INTERESTED PARTIES. PHELPS SENT A MEMO TO THE LAW LIBRARY REQUESTING LEGAL RESEARCH ASSISTANCE, BUT THERE WAS NO RESPONSE. HE SENT A MEMO TO COUNSELOR LEONARD AND UNIT MANAGER DOLITTLE REQUESTING PERMISSION TO GO TO THE LAW LIBRARY BUT NEITHER RESPONDED. THEY WERE INDIFFERENT TO THE REQUESTS.

PHELPS GAVE PAPERS TO ANOTHER INMATE (WHO HUNG IN A CORD UNIT) TO PHOTOCOPY AT THE LAW LIBRARY. THE MACHINES WOULD NOT PHOTOCOPY THE BLUE INK AND THE COMMISSARY SELLS ONLY PENS WITH BLUE INK.

PHELPS ASK THE UNIT OFFICER TO USE THE UNIT TYPEWRITER (WHICH EACH UNIT IS REQUIRED TO HAVE) AND WAS INFORMED THAT THE UNITS DO NOT HAVE TYPEWRITERS FOR INMATE USE.

PHELPS ASK A FRIEND TO GET SOME FORMS FROM THE LIBRARY (WHICH THE LIBRARY IS REQUIRED TO HAVE) AND SOME ADDRESSES OF COURTS (ETC) AND WAS TOLD THAT THE LIBRARY DID NOT PROVIDE SUCH DOCUMENTS AND PHELPS WAS INFORMED THAT HE COULD NOT GET HELP FROM OTHER INMATES EVEN THOUGH THE STAFF WILL NOT ASSIST HIM AND WILL NOT ALLOW HIM TO GO ANYWHERE TO ASSIST HIMSELF. AS AN ADDENDUM TO THIS COMPLAINT,

PHELPS REQUESTED SOMEONE TO COPY THIS PETITION, BUT THE REQUEST WAS DENIED UNTIL A GLANCE AT THE PETITION REVEALED IT WAS A LAWSUIT AGAINST BOP EMPLOYEES. IT WAS AGREED THAT PHELPS WOULD PAY FOR THE PHOTOCOPYING. EXTRA COPIES WERE MADE AND GIVEN TO THE FACILITY ATTORNEY, SOME RESPONDENTS, AND OTHERS EVEN BEFORE THE COMPLAINT WAS SENT TO THE COURT (BY COUNSELOR LEONARD).

WHEN PHELPS ARRIVED AT FMC DENVER, HE REQUESTED PERMISSION TO GO TO THE LAW LIBRARY. HIS DOCTOR (HARRIS) APPROVED THE REQUEST. AFTER SOME DELAY OF NOT BEING ALLOWED TO GO, PHELPS ENQUIRED ABOUT A PERSON AND DR HARRIS INFORMED PHELPS THAT THE UNIT TEAM MEMBERS WERE PUNISHING HIM FOR THE INCIDENT REPORT HE RECEIVED AND WITHOUT THE DISCIPLINARY COMMITTEE DISMISSING AS BEING A FRAUDULENT

REPORT

THE TEAM MEMBERS DID NOT GIVE PITEPS ANY DUE PROCESS BEFORE IMPOSING THE PUNISHMENT OF DENYING HIM ACCESS TO THE LAW LIBRARY. ONE OF THE TEAM MEMBERS WAS CASE MANAGER DRY, AND PITEPS HAD ALREADY INFORMED HER THAT THE DISCIPLINARY COMMITTEE HAD DISMISSED THE COMPLAINT AGAINST HIM. HE ASKED HER TO EXPUNGE THE INCIDENT REPORT FROM HIS RECORD (WHICH SHE IS AUTHORIZED TO DO) BUT SHE SAID "THAT'S NOT MY BUSINESS - THAT'S THEIR BUSINESS. SHE (AND THE OTHER TEAM MEMBERS) DECIDED TO RETALIATE AGAINST PITEPS FOR PERSISTING ON THE INCIDENT REPORT AND TO PUNISH HIM FOR PERSISTING BY DENYING HIM ACCESS TO THE LAW LIBRARY.

THIS PUNISHMENT WITHOUT ANY DUE PROCESS ALSO VIOLATES DOUBLE JEOPARDY AND IS RETALIATORY UNINDUCTIVE PUNISHMENT.

10th CAUSE OF ACTION: RESTRICTION TO COURT ACCESS:

RULES OF THE BOP REQUIRE ASSISTANTS INMATES TO OBTAIN ACCESS TO THE COURTS. PITEPS REQUESTED THAT \$150.00 BE WITHDRAWN FROM HIS ACCOUNT AND TO HAVE A CHECK MADE PAYABLE TO THE COURT AS A FILING FEE FOR THIS ACTION. THIS IS A ROUTINE MATTER AND BOP POLICIES PROVIDE THE PROCEDURES. THE MONEY IN QUESTION BELONGS TO PITEPS. PITEPS IS NOT INCOMPETENT AND MANAGES HIS OWN FUNDS. BOP POLICY STATES THAT INMATES MAY WITHDRAW FUNDS AT ANYTIME AND CAN SEND MONEY TO ANYONE NOT IN VIOLATION OF RULES. THE BOP ONLY HOLDS THE MONEY - LIKE A BANK.

"SUSAN" (BUSINESS OFFICE SUPERVISOR) REFUSED THE REQUEST SAYING THAT SHE HAD SET UP HER OWN NEW PROCEDURES WHEREBY THE INSTITUTION MUST NOW WAIT FOR THE COURT TO REVIEW THE ACTION (TO DETERMINE ITS MERIT) AND THEN WAIT FOR THE COURT TO ISSUE AN ORDER TO WITHDRAW THE MONEY.

THIS IS JUST A SHAM TO CREATE OBSTACLES AND BARRIERS FOR INMATES TO

OVERCOME TO GAIN ACCESS TO THE COURTS. COURTS ARE LOCKED IN FORMS PHELPS THAT WARDEN WOULD CONSIDER THE PROCEDURE AFTER IT WAS IMPLEMENTED. THIS PROCEDURE IS DESIGNED SOLELY TO HARASS INMATES AND SERVES NO LEGITIMATE FUNCTION. IT MERELY CREATES OBSTACLES TO ACCESSING THE COURT.

11th CAUSE OF ACTION:

ON 1-23-2005 JEFFERY SCHWARTZ COLLECTED A GROUP OF INMATES THAT WERE ON "CALL-OUTS" (WHICH IS A LIST OF INMATES AND THEIR SCHEDULED ACTIVITIES). PHELPS' NAME WAS ON THE LIST. PRIOR TO THAT, A NURSE HAD NOTIFIED PHELPS THAT HE WAS ON "CALL-OUT" BUT BECAUSE HE WAS ON UNIT N-3 (A SOME-WEIRD UNIT) THAT DR. SCHWARTZ, P.M. (WHATEVER P.M. IS) WOULD COME TO THE UNIT AND USHER THE INMATES TO A GROUP THERAPY ROOM (INMATES ON N-3 MUST BE USHERED ON CYCLOPS. THEY CANNOT LEAVE THE UNIT UNUSHERED EXCEPT TO US TO MEALS)

DR. SCHWARTZ TOLD THE INMATES "YOU ARE SCHEDULED FOR GROUP THERAPY WITH ME IN ANOTHER AREA. YOU DON'T HAVE TO GO IF YOU DON'T WANT TO. YOU HAVE THE RIGHT TO REFUSE. IF YOU REFUSE I WILL ASK YOU TO SIGN A REFUSAL FORM (BP-355(6C)) AND IF YOU SIGN, YOU WILL NOT BE PUT ON CALL-OUT AGAIN. I WON'T BOTHER YOU ABOUT IT."

PHELPS INFORMED SCHWARTZ HE WAS REFUSING AND REQUESTED THE FORM TO SIGN. SCHWARTZ SAID PHELPS MUST GO TO GROUP THERAPY AND SIGN THE FORMS THERE AND HE MUST STAY IN GROUP THERAPY THE FULL HOUR BEFORE SIGNING THE FORM. PHELPS SAID "LET ME GET THIS STRAIGHT. I CAN REFUSE TREATMENT BUT YOU ARE REQUIRING ME TO RECEIVE THE TREATMENT BEFORE I CAN REFUSE IT? - THE VERY SAME TREATMENT I HAVE A RIGHT TO REFUSE?" HE REPLIED "YES."

PHELPS REFUSED TO GO SAYING THAT WAS THE MOST ILLOGICAL THING HE (AND HEARD) SINCE HIS WIFE WENT TO THE MALL AND SPENT 500 DOLLARS ON CLOTHES TO SAVE MONEY (40 YEARS OLD). SINCE SCHWARTZ SAID NOONE WAS REQUIRED TO GO, PHELPS RETURNED TO HIS ROOM.

TEN HOURS LATER SCENESHA BROUGHT THE REFUSAL FORM TO PHELPS FOR PHELPS TO SIGN. PHELPS SIGNED THE FORM. SCENESHA SAID "BECAUSE YOU REFUSED TO GO ON CALL OUT AND BECAUSE YOU REFUSED GROUP THERAPY, I'M WRITING A DISCIPLINARY INCIDENT REPORT ON YOU." PHELPS SAID "LET ME GET THIS STRAIGHT - YOU'RE GOING TO PUNISH ME FOR NOT DOING WHAT I AM NOT REQUIRED TO DO?" "YES" HE SAID. "YOU CAN'T DO THAT" PHELPS SAID. "I HAVE A RIGHT TO REFUSE - YOU GAVE ME THAT RIGHT." "WELL, YOU HAVE THE RIGHT TO BREAK THE LAW TOO BUT YOU MUST FACE THE CONSEQUENCES." HE SAID. PHELPS SAID "THAT'S AS ILLOGICAL AS YOUR OTHER REMARKS - NOONE HAS A RIGHT TO DO A DREAM, THAT'S WHY WE HAVE PRISONS." "WELL, ANYWAY" HE SAID "I'M WRITING A INCIDENT REPORT ON YOU."

PHELPS WENT TO HIS COUNSELOR TO GET A ADMINISTRATIVE REMEDY FORM. THE COUNSELOR REFUSED. PHELPS WENT TO THE UNIT MANAGER AND THE WARDEN TO EXPLAIN THE SITUATION AND THEY REFUSED TO LISTEN TO ANY ACCOUNTS. "IF YOU WERE ON CALL OUT AND YOU DIDN'T GO - YOU GET PUNISHED!" "THAT'S NOT ONLY INTENTIONAL" PHELPS SAID "BUT ITS DEFINITELY CAPRICIOUS."

PHELPS WAS SO DISTRESSED THAT HE COULD NOT EAT HIS MEAL (HE HAD TO GET THEM AT THE INMATE DINING ROOM) AND HE WAS SO UPSET HE HAD TO SEEK MEDICAL ATTENTION FROM THE NURSE ON THE UNIT (PHELPS HAS HAD 2 STROKES AND A HEART ATTACK - HE IS 71 YEARS OLD) (UNDER STRESS AND EXCITEMENT CREATES HIM MEDICAL PROBLEMS)

12TH CAUSE OF ACTION:

PHELPS DOES NOT COME UNDER THE JURISDICTION OF 18 USC 4243 (INSANITY STATUTE). THE STATUTE REQUIRES A CRIME. THE GOVERNMENT HAS ADMITTED THAT PHELPS DID NOT COMMIT A CRIME. IN 1992 THE GOVERNMENT DISCOVERED EVIDENCE THAT SHOWED THE ACTUAL INNOCENCE OF PHELPS AND THAT HE WAS NOT MENTALLY ILL (UNDER THE LAW) BUT STILL WOULD NOT RELEASE HIM BECAUSE OF HIS SHARED RELIGIOUS BELIEFS THAT THE GOVERNMENT FOUND OFFENSIVE (NOT UNLAWFUL - JUST OFFENSIVE)

13th CAUSE OF ACTION

THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION MADE CLEARLY ERRONEOUS INTERPRETATIONS AND CONCLUSION OF LAW AND FACT, AND MISAPPLIED THE FEDERAL MENTAL HEALTH LAWS. THE LAW REQUIRES PHELPS TO BE HOSPITALIZED. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL IN WHICH TO CONFINED INSANITY ACQUITTED (FOULKE V LOUISIANA, 1994, 504 US 71, WILLIAMS V RICHMOND 801973, 481 F.2d 353; DAVIS V WARDLE, 102001, 264 F.3d 86) US V STEPHAN, 122 F.Supp 564

THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES FEDERAL HOSPITALIZATION OR CONFINEMENT. THE ATTORNEY GENERAL HAS ONLY 4 OPTIONS AND ALL THOSE OPTIONS DO NOT INCLUDE ANYTHING FEDERAL (18 USC 4247(i))

THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW AND PUT PHELPS IN FEDERAL CUSTODY.

14th CAUSE OF ACTION:

THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY OF PHELPS AND, CONSEQUENTLY, THE EMPLOYEES OF THE BOP DO NOT HAVE LAWFUL JURISDICTION OR AUTHORITY OVER PHELPS AND CANNOT TREAT PHELPS AS A CONVICTED PRISONER (US V JONES, 1983, 463 US 369). BECAUSE HE IS A UNCONFINED CIVIL MENTAL PATIENT (NOT A CONVICTED PRISONER) ~~HE~~ MUST BE TREATED BY RULES OF A MENTAL HOSPITAL-NOT BY THE RULES OF A PRISON (TYLER V CULLEN, WDMO 1969, 299 F.Supp 684; CARRISON V JONES, ^{DUMAS} 1992, 183 F.Supp 1511

THE RESPONDENTS REFUSE TO ACKNOWLEDGE THAT PHELPS IS A UNCONFINED CIVIL MENTAL PATIENT (AND NOT A CONVICTED SENTENCED PRISONER) AND TREATS HIM WORSE THAN SENTENCED PRISONERS UNDER RULES ESTABLISHED FOR ONLY CONVICTED PRISONERS

THE GUIDELINES FOR THE TREATMENT OF THE MENTALLY ILL IS PRESENTED IN 42 USC 10391 AND FOY V BROOKSBUFF, 1983, 190 ORL RPT 84, 141 CASE 1. SEE MCKINNON V DORCHESTER COUNTY CORRECTIONAL CENTER, D.MASS 1991, 770 F.Supp 43 AFF 901 F.2d 987

PHELPS HAS THE RIGHT TO REFUSE ANY TREATMENT (ANDERSON V CUMMINGS, 1981, 483 US 635; WATKINS V WESTER, 1990, 864 F.2d 695; SHIELDS V BOWDOIN, 1989, 814 F.2d 1201; CRUTCHFIELD V SPENCE, 1992, 964 F.2d 172; SMITH V US, 1981, 432 F.2d 354; WHITE V NAPOLEON, 1990, 897 F.2d 103; US V CUMMINGS, 657 F.2d 1017

15th CAUSE OF ACTION

THE U.S. BUREAU OF PRISONS, AND ITS REPRESENTATIVES, HAVE VIOLATED THE TERMS OF THE AMERICANS WITH DISABILITIES ACT (42 USC 12101), THE LERMITAGE ELDON CARE ACT, AND THE BILL OF RIGHTS FOR THE MENTALLY ILL (42 USC 10841).

THEY HAVE TREATED THE MENTALLY ILL WORSE THAN SENTENCED PRISONERS. THEY DO NOT PROVIDE INDIVIDUALIZED CARE OR TREATMENT PARTICULARIZED TO THE TYPE OF DISABILITY AND THE CHARACTER OF THE DISABLED PERSON. THEY DO NOT PROVIDE AN INDEPENDENT ADVOCATE FOR CIVIL PATIENTS. THE RECOMMENDATIONS ARE FOR CONFINED AND SENTENCED PRISONERS NOT FOR THE MENTALLY DISABLED. STAFF IS UNQUALIFIED IN THE CARE OF THE SICKLY AND THE MENTALLY DISTRESSED PATIENT, AND DO NOT USE PROFESSIONAL JUDGMENT.

PHELPS HAS BEEN ABUSED, MISTREATED, ASSAULTED, THREATENED, TORTURED, AND TERRORIZED BY U.S. BUREAU OF PRISON EMPLOYEES IN HIS 20 YEARS OF INCARCERATION. OFFICERS OF THE BOP HAVE BEATEN HIM WHILE HE WAS RESTRAINED, CHAINED HIM TO A WALL AND SPRAYED HIM WITH FIRE HOSES AND CHEMICAL FIRE EXTINGUISHERS, HANDCUFFED HIM TO A FENCE AT NIGHT IN RAINSTORMS, SNOWSTORMS, AND SUMMER HEAT, DEPRIVED HIM OF FOOD, CLOTHING, SHELTER, AND MEDICAL CARE, USED MEDICATION ON HIM FOR REASONS OTHER THAN MEDICAL, CONFINED TO ISOLATION, SEGREGATION, AND QUARANTINE WITHOUT ANY LEGITIMATE REASONS AND WITHOUT ANY DUE PROCESS, HANGED ON DECKS AND PONDS BY HANDCUFFS ON WRISTS OVER HIS HEADS WITH FEET OFF THE FLOOR, STRAPPED TO BED IN 5 POINT RESTRAINTS FOR 5 DAYS BECAUSE OF BEING 10 MINUTES LATE FOR AN APPOINTMENT AND THEN BURNED WITH LIT CIGARETTES AND HOT COFFEE WHILE IN RESTRAINTS, AND MANY OTHER OUTRAGEOUS ACTS OF TORTURE WHICH WERE NOT VINDICATED - BUT ADMITTED TO. ONE JEW DOCTOR READ PHELPS RECORD AND TRIED TO MURDER PHELPS BY DIAGNOSING PHELPS AS A DIABETIC AND CLAIMING IT WAS HIS DUTY TO SAVE PHELPS LIFE WITH INSULIN (THE U.S. MARSHALS COLLECTED PHELPS TO TAKE HIM TO COURT ON A WAIT JUST 15 MINUTES BEFORE THE SCHEDULED INSURANCE). ALL THE ABOVE IS DOCUMENTED - AND MORE! YET, IN ALL THE 20 YEARS PHELPS HAS BEEN CONFINED. ALL HIS SUFFERING WAS IN RETALIATION FOR NOTHING - MOSTLY FOR FILING COMPLAINTS OF THE ABOVE IN COURT.

16th CAUSE OF ACTION

WHEN PITELAS ENTERED THE INSTITUTION, HE HAD NO PERSONAL PROPERTY BECAUSE THE B.C.P. WOULD NOT ALLOW HIS PROPERTY TO BE TRANSPORTED WITH HIM EVEN THOUGH HE WAS TRANSPORTED ON A PRIVATE JET AIRCRAFT AND THERE WAS AMPLE ROOM FOR THE PROPERTY.

OVER A MONTH LATER THE PROPERTY ARRIVED FROM HIS PREVIOUS PRISON AT BURNER MOUNT, CAROLINA. SEVERAL ITEMS WERE NOT ALLOWED SIMPLY BECAUSE THEY WERE NOT SOLD TO INMATES AT NEVENS (BUT WAS SOLD TO INMATES AT BURNER). THE WARDEN POLICY IS "IF WE DON'T SELL IT HERE - YOU CAN'T HAVE IT."

PITELAS HAD IN HIS POSSESSIONS BIBLE LESSONS WHICH THE OFFICERS WOULD NOT ALLOW PITELAS TO HAVE BECAUSE OF ITS RELIGIOUS CONTENT. ALL THE LITERATURE WAS RELIGIOUS AND WERE LESSONS ON THE SCRIPTURE OF THE CHRISTIAN HOLY BIBLE. AS RELATED TO SOCIETY, GOVERNMENTS, PEOPLE, CULTURE, AND WORLD EVENTS.

NOTHING IN THE LITERATURE ADVOCATED THE DISRUPTION OR OPERATION OF THE INSTITUTION. THE REJECTION VIOLATED PITELAS' 1st, 5th, AND 9th (COMMON LAW) RIGHTS AS WELL AS HIS RIGHTS UNDER 42 USC 2000bb - 2000bb-4 (RELIGIOUS FREEDOM RESTORATION ACT) BECAUSE HIS RELIGION TEACHES HE MUST STUDY TO SHOW HIMSELF APPROVED OF GOD (2 TIMOTHY 2:15; 1 THESSALONIANS 4:11) SEE BRYANT V COMBZ, 901995, 46 F3d 948; HERNANDEZ V COMMISSIONER, 1988, 490 US 680, SLICK V RICHMOND, 1984 468 US 576; THE CONSTITUTION ALSO GUARANTEES THE RELIGIOUS RIGHTS PROTECTED BY FEDERAL LAW REGARDING INSTITUTIONS (42 USC 200000)

CAN A INSTITUTION, OR FACILITY, IMPOSE CONDITIONS AND RESTRICTIONS ON A PERSON OF WHOM IT DOES NOT HAVE DIRECT CUSTODY? CAN PRISON RULES BE APPLIED TO UNDETAINED CIVIL MENTAL PATIENTS WHICH INTERFERE WITH THE PERSONS RELIGIOUS BELIEFS.

THE PRISON ALLOWS THE ANTI WHITE TEACHINGS OF ISLAM, MODERN SIKHISM, BLACK PANTHER NATIONALISTS, RASTAFARIANS, ETC BUT WILL NOT ALLOW TEACHINGS OF WHITE RACIAL POLITY (SEE MACROBOS V ARKUS, 901987, 827 F2d 634-638 - ADVOCATING RACIAL POLITY IS INSUFFICIENT TO JUSTIFY CONFINEMENT)

17th CAUSE OF ACTION:

DOES A UNCONVICTED CIVIL MENTAL PATIENT HAVE A GREATER RIGHT OF PRIVACY THAN
CONVICTED AND SENTENCED PRISONERS?

PIPERIS HAS NO PRIVACY AT ALL IN THE B.O.D. SYSTEM. UNDER RULES ALLOWING HIM TO BE TREATED AS A CONVICTED PRISONER (28 CFR 551.101 (a)(2) AND BOP POLICY 735.6.1) PIPERIS, AND HIS ROOM/CELL, AND PROPERTY CAN BE SEARCHED AT ANY TIME UNDER ANY CIRCUMSTANCES, FOR NO REASON OR FOR ANY PERSON AT ALL (AND THIS GOES ON).

His phone calls are monitored and recorded. All his movements are monitored by video surveillance cameras, his personal and work mail is opened, inspected, read, photocopied, and interfered with - without due process.

MAIL FOR UNCONFINED INMATES CANNOT BE RECEIVED IN THE SAME MANNER AS MAIL FOR
CONFINED PRISONERS NOR CAN THE UNCONFINED BE SUBJECT TO THE SAME REQUIREMENTS
(JONES & WITTENBULL, NOV-80 1971, 323 F.Supp 43, 330 F.Supp 707, 442 F.Supp 60, 451 F.2d 854
456 F.Supp 748)
THE UNCONFINED CIVIL MENTAL PATIENT HAS THE RIGHT TO SEND AND RECEIVE MAIL AS ANY
FREE WORLD CITIZEN (THOR, 1969, 299 F.Supp 184 n. 3) AND NO ONE CAN
OPEN THE MAIL OF A UNCONFINED CIVIL MENTAL PATIENT (GUARDIA, 1978, 530 F.2d 798)
THE PRIVACY RIGHTS OF A CIVIL COMMITMENT CANNOT BE ABROGATED BY ACTS OF CONGRESS
(JOHNSON & JOHNSON, 1981, 732 F.Supp 30) SEE ALSO DOUGLAS, 10/17/74,
542 F.2d 493; INMATES v DOUGLAS, 9/1/75, 525 F.2d 54; ALLEN v MILITARY, 6/9/74, 507 F.2d 331;
DOUGLAS v PETERSON, 5/1/75, 319 F.Supp 1225; HOPKINS v CLARK, 4/1/77, 543 F.2d 503 AND
411 F.Supp 831; HARDWICK v QUOT, 10/26/75, 447 F.Supp 116; INMATES v LAMM, 9/55 F.Supp 124,
520 F.Supp 1057, 539 F.Supp 130, 713 F.2d 546)

SUMMARY AND CONCLUSION

1. FIRST THE COURT MUST DETERMINE ITS OWN JURISDICTION (STEELER V CITIZENS, 1998, 523 US 83 AT 94). A COMPLAINT THAT ALLEGES VIOLATIONS OF LAW AND THE CONSTITUTION GIVES THE COURT JURISDICTION (BELL V HODG, 1946, 327 US 678, BIWENS V GUNENBERG NAMED AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, 1971, 403 US 338; ALEXANDER V COMMISSIONER, DEC 1987, 825 F2d 499 AT 502 (COURT HAS INHERENT POWERS TO ACT IN THE INTEREST OF JUSTICE); IF THE COURT HAS JURISDICTION, IT MUST
2. DETERMINE IF 18 USC 4243 CAN BE APPLIED TO PHILIPS AND THAT REQUIRES A STATUTORY ANALYSIS. WORDS OF A STATUTE ARE TO BE GIVEN THEIR PLAIN MEANING (CAMPBELL V MCDONALD, 1987, 242 US 470 AT 485) AND TO LOOK TO THE INTENT OF CONGRESS (RESCOTT V SANDERS, 1993, 507 US 19 AT 104). THE STATUTE REQUIRES A CRIMINAL ACT BEFORE IT CAN BE APPLIED (WILLIAMS V WYLLIS, 11/1984, 734 F2d 1434). IF PHILIPS DID NOT COMMIT A CRIME (AND THE GOVERNMENT HAS ADMITTED HE DID NOT) THEN THE LAW IS INAPPLICABLE AND THE MATTER ENDS BECAUSE WHATEVER HAPPEN THEREAFTER IS UNKNOWN. IF PHILIPS IS LAWFULLY UNDER THE JURISDICTION OF 18 USC 4243, THEN THE COURT MUST
3. DETERMINE IF THE U.S. ATTORNEY GENERAL MISAPPLIED THE LAW. COURTS CAN REVERSE DECISIONS WHEN THERE IS A MISAPPLICATION OF LAW OR A DEVIATION OF THE USUAL LEGAL STANDARDS (PURVIS V BELL, 10/1981, 641 F2d 1006 AT 1007). IF THE ATTORNEY GENERAL MISAPPLIED THE LAW, THE COURT CAN END THE ENQUIRY BECAUSE EVERYTHING AFTER THAT IS UNKNOWN. IF HE DID NOT, THE COURT MUST
4. DETERMINE IF THE U.S. BUREAU OF PRISONS HAS LAWFUL CUSTODY OF PHILIPS. A PERSON CANNOT BE INCARCERATED ABSENT A CONVICTION (BARKER V MCGILL, 1977, 443 US 137 AT 144; 18 USC 4001(c)) AND WHEN THE BOP IS NOTIFIED THAT A PERSON MAY BE FREELY DISCHARGED, THE BOP HAS A DUTY TO INVESTIGATE THE VALIDITY OF THE INCARCERATION (MARTINEZ V CITY OF LA, 9/1988, 141 F2d 1373 AT 1381). WHEN THE BOP WAS NOTIFIED IN 1992 THAT PHILIPS DID NOT COMMIT THE CRIMES, IT DID NOTHING. IF THE BOP HAS LAWFUL CUSTODY OF PHILIPS, THE COURT MUST
5. DETERMINE IF THE BOP EMPLOYEES HAVE LAWFUL JURISDICTION AND AUTHORITY TO ACT. A STATUTE

CANNOT GRANT JURISDICTION WHERE THE CONSTITUTION FORBIDS IT (GILSON - REPUBLIC OF IRELAND, DEC 1982, 682 F.2d 1022 AT 1028). IF THE EMPLOYEES HAVE NO LEGAL AUTHORITY TO ACT, THEN WHATEVER THEY DO IS UNLAWFUL. IF THE EMPLOYEES HAVE JURISDICTION, THE COURT MUST

6. DETERMINE IF THE EMPLOYEES HAVE PROPERLY APPLIED THE LAWS AND BOP RULES. RULES MUST BE BASED ON STATUTORY AUTHORITY (DIVIDSON V DC, DC 1989, 562 A2d 107) AND COURTS SHOULD NOT HESITATE TO STRIKE DOWN BOP RULES THAT ARE UNCONSTITUTIONAL (SMITH V SIMMONS, 1972, 349 F.Supp 268). IF RULES REQUIRE EMPLOYEE CONSENT, AND EMPLOYEES VIOLATE THAT RULE, THERE IS NO SHIELD FROM LIABILITY (CHAPMAN V US, 1991, ___ U.S. ___, 113 OGDd 335). IF A RULE IS IN CONFLICT WITH A LAW IF IS UNCONSTITUTIONAL (US V HECKARD, 100 L001, 238 F3d 1222 AT 1237) 28 CFR 551.101 IS IN CONFLICT WITH 18 USC 4243 AND US V JONES, 1993, 463 US 354. IF THE RULES ARE PROPER -

7. THE COURT MUST DETERMINE IF THE ACTIONS OF THE EMPLOYEES ARE LAWFUL, THE EMPLOYEES MUST BE QUALIFIED AND MUST ACT PROFESSIONALLY (YOUNGBERG - RECTOR, 1982, 457 US 307). THE EMPLOYEES KNOW THAT THEY CANNOT TREAT PRISONERS AS A CONVICTED PRISONER (LOCK V JENKINS, 70 1981, 641 F2d 488) AND MUST TREAT HIM BETTER (HAMILTON V LOUG, 328 F.Supp 1151) AND MUST MAKE PROFESSIONAL JUDGMENTS (SANTANA V COLLIER, 10 1986, 793 F2d 41), IF THE EMPLOYEES HAVE NOT ACTED PROPERLY OR LAWFULLY, THE COURT MUST

8. DETERMINE THE LEVEL OF INJURY INFLICTED ON PRISONERS, AND

9. THE AMOUNT OF DAMAGES TO AWARD FOR VIOLATING PRISONERS' 1st, 4th, 5th, 8th, & 9th AMENDMENT RIGHTS UNDER THE US CONSTITUTION AND FOR VIOLATING THE PROVISIONS OF 18 USC 241-242, 18 USC 4243 AND 4247, 18 USC 4001(a), 42 USC 10341, 42 USC 2006bb - 2006cc, 42 USC 12101, 50 USC 552 - 5526 OTHER FEDERAL LAWS, FEDERAL REGULATIONS, BUREAU OF PRISON RULES AND POLICIES, CODE OF ETHICS AND EMPLOYEES CONDUCT, COMMON LAW, AND SUPREME COURT LAW, AND FOR CAUSING IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, ANGER, DISTRESS, PAIN, AND SUFFERING.

IX

PRAYER AND RELIEF

PHILIPS PRAYS THAT THIS COURT RECOGNIZES THAT PHILIPS IS A UNCONVICTED CIVIL MENTAL PATIENT (NOT A CONVICTED CRIMINAL PRISONER) AND THAT THE COURT USES THE STANDARDS OF "PATIENTS RIGHTS" AND NOT PRISONERS RIGHTS AS EXEMPLIFIED IN US V JONES, 1981, 546 A2d 183, 411 A2d 624, 432 A2d 364, 463 US 354; YOUNGBERG V REMCO, 1982, 457 US 507; PARNHAM V JR, 1974, 442 US 584; FOLCHY V LECOMTE, 1992, 504 US 71; PENNINGTON V HARTMAN, 451 US 1; MANGIL V BUTENUT HOSPITAL, 1972, 407 US 245; HUMPHREY V GYDY, 1972, 405 US 504; REDDIE V KLEIN, 1979, 458 US 119; OCOUNCE V DONROSEN, 1987, 422 US 563; DESHANEY V WINTERBROOK, 1989, 489 US 189; CITELSHIRE HOSP V N.L., 10/1992, 689 F2d 1132; US TRUST V NJ, 1977, 431 US 1; BATTLE V ANDERSON, CDARK 1974, 376 Fsupp 402, 457 Fsupp 119, 447 F2d 516, 564 F2d 388, 594 F2d 286, 614 F2d 251; SOCIETY V OCEANIC, 731 F2d 1234; BOE V OCEANIC, 201984, 729 F2d 96 AND OTHER CASES INVOLVING NON-PRISONER CIVIL PATIENTS;

PHILIPS PRAYS THAT THIS COURT FOLLOWS THE ADJUDICATIONS OF THE COURT IN REMOO V YOUNGBERG, 1982, 644 F2d 147 AFF 457 US 507 THAT IT CANNOT TAKE CRIMINAL DECISIONS FOR CONVICTED PRISONERS AND APPLY THOSE DECISIONS TO CIVIL COMMITMENTS;

PHILIPS PRAYS THAT THIS COURT USES THE TOTALITY OF CIRCUMSTANCES STANDARD IN ASSESSING THE CONDITIONS OF CONFINEMENT

PHILIPS PRAYS THE COURT USES THE HEIGHTENED SCRUTINY STANDARD IN INTERPRETING THE LAWS OR THE ABSOLUTE STANDARD.

PHILIPS PRAYS FOR RELIEF AND REMEDY

PHILIPS PRAYS FOR DECLARATORY JUDGMENT AND REQUEST THE COURT TO DECURE;

1. PHILIPS DOES NOT FALL UNDER THE JURISDICTION OF 18 USC 4243 IF HE IS ACTUALLY INNOCENT AND DID NOT COMMIT A CRIME BECAUSE THE STATUTE REQUIRES A CRIME TO HAVE BEEN COMMITTED;

2. THE FEDERAL GOVERNMENT DOES NOT HAVE A CIVIL HOSPITAL IN WHICH TO CONFINING FEDERAL INSANITY ACQUITEES AND 18 USC 4243 REQUIRES "HOSPITALIZATION";
3. THERE ARE NO PROVISIONS IN THE FEDERAL MENTAL HEALTH LAWS THAT ALLOWS, OR AUTHORIZES, FEDERAL CONFINEMENT OF INSANITY ACQUITEES OR OTHER FEDERAL CIVIL COMMITTEES;
4. THE U.S. ATTORNEY GENERAL ABUSED HIS DISCRETION, MADE CLEARLY ERRONEOUS INTERPRETATIONS AND CONCLUSIONS OF LAW AND FACT, AND THEN MISAPPLIED THE PROVISIONS OF 18 USC 4243 AND 18 USC 4247;
5. NEITHER THE COURTS NOR THE U.S. ATTORNEY GENERAL HAVE LAWFUL JURISDICTION OR AUTHORITY TO COMMIT INSANITY ACQUITEES TO THE CUSTODY, AND CONFINEMENT, OF THE U.S. BUREAU OF PRISONS;
6. THE U.S. BUREAU OF PRISONS DOES NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY OVER PRISONERS OR ANYONE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246;
7. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS (REGULAR OR UNDER CONTRACT) DO NOT HAVE LAWFUL CUSTODY, JURISDICTION, OR AUTHORITY OVER PRISONERS OR ANYONE SUBJECT TO 18 USC 4243 OR 18 USC 4246; THEY ACTED IN ABSENCE OF ANY LEGAL JURISDICTION;
8. EMPLOYEES AND MEMBERS OF THE U.S. BUREAU OF PRISONS ARE NOT LEGALLY QUALIFIED TO CARE FOR, OR TREAT PRISONERS OR ANYONE SUBJECT TO 18 USC 4243 OR 18 USC 4246;
9. THERE IS A LEGAL AND CONSTITUTIONAL DIFFERENCE BETWEEN UNCONVICTED CIVIL MENTAL PATIENTS AND CONVICTED CRIMINALLY SENTENCED PRISONERS AND UNCONVICTED CIVIL PATIENTS CANNOT BE TREATED AS CONVICTED OR SENTENCED PRISONERS;
10. UNCONVICTED CIVIL PATIENTS HAVE MORE RIGHTS AND PRIVILEGES THAN PRETRIAL DETAINERS OR CONVICTED PRISONERS
11. UNCONVICTED CIVIL MENTAL PATIENTS HAVE, AT LEAST, THE SAME, OR GREATER, RIGHTS OF A PERSON ON HOUSE CONFINEMENT;
12. UNCONVICTED CIVIL MENTAL PATIENTS CANNOT BE SUBJECT TO THE RULES AND REGULATIONS OF A JAIL OR PRISON AND MUST HAVE THEIR OWN SPECIFIC PARTICULARIZED SET OF RULE AND REGULATIONS DESIGNED TO PROMOTE HEALING, RECOVERY AND REHABILITATION;

13. THE SUPERVISORY STAFF OF THE U.S. BUREAU OF PRISONS FAILED TO PROPERLY AND ADEQUATELY TRAIN AND SUPERVISE SUBORDINATE B.C.P. MEMBERS IN THE CARE, TREATMENT, AND PROVIDING SERVICES FOR UNCONFINED CIVIL MENTAL PATIENTS
14. THOSE COMMITTED UNDER 18 USC 4243 OR 18 USC 4246 MUST BE TREATED AS PATIENTS - NOT PRISONERS; AND HAVE A ADVOCACY - SEE 42 USC 10306
15. PHELPS SUFFERED UNLAWFUL AND UNCONSTITUTIONAL ABUSE AND MISTREATMENT BY U.S. BUREAU OF PRISON EMPLOYEES AND MEMBERS;
16. PHELPS HAS BEEN UNLAWFULLY AND UNCONSTITUTIONALLY INCARCERATED AND IMPRISONED IN THE U.S. BUREAU OF PRISONS
17. PHELPS HAS SUFFERED A DEPRIVATION, DENIAL, AND VIOLATION OF HIS CONSTITUTIONALLY, STATUTORY, CIVIL, AND COMMON LAW GUARANTEES, FREEDOMS, LIBERTIES, RIGHTS, PRIVILEGES, IMMUNITIES, PROTECTIONS, AND SAFEGUARDS
18. THE RESPONDENTS KNOW THE CONSTITUTION AND LAWS, AND UNDERSTOOD THE CONSTITUTION AND THE LAWS, BUT STILL KNOWINGLY, INTENTIONALLY, AND WILLINGLY ACTED CONTRARY TO THE CONSTITUTION AND THE LAWS; AND ACTED WITHOUT PROFESSIONAL JUDGMENT;
19. THE RESPONDENTS CAUSED PHELPS IRREPARABLE PHYSICAL, MENTAL, EMOTIONAL, AND SPIRITUAL LOSS, HARM, INJURY, ANXIETY, DISTRESS, PAIN, AND SUFFERING;
20. PHELPS HAS SUFFERED A MISFEASANCE OF JUSTICE AND A MANIFEST INJUSTICE AND BOTH ARE COMPENSABLE UNDER THE CONSTITUTION AND THE LAWS;
21. PHELPS IS A PATIENT - NOT A PRISONER - AND LAWS AND RULES FOR PRISONERS DO NOT APPLY TO HIM.
 PHELPS PRAYS FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWO MILLION (2,000,000) TAX FREE DOLLARS FROM EACH RESPONDENT;
 PHELPS PRAYS FOR ATTORNEY FEES AND COST;
 PHELPS PRAYS FOR INJUNCTIVE RELIEF ENTITLING THE B.C.P. FROM CONFINING ANY PERSON SUBJECT TO THE PROVISIONS OF 18 USC 4243 OR 18 USC 4246;
 PHELPS PRAYS FOR ANY OTHER RELIEF AND REMEDY THE COURT DEEMS FAIR, JUST, PROPER, LAWFUL AND EQUITABLE TO PROMOTE JUSTICE, TO PREVENT A MISFEASANCE OF JUSTICE, AND TO MEET THE ENDS OF JUSTICE.

RESPECTFULLY SUBMITTED ON THIS 30th DAY OF JANUARY, 2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC - DEFEND

42 PATTON ROAD

P.O. Box 879

AYER, MA 01432

CERTIFICATION

I, COY PHELPS, CERTIFY UNDER PENALTY OF PERJURY, PURSUANT TO 28 USC 1746, THAT

I AM THE PETITIONER IN THIS ACTION AND THAT ALL THE STATEMENTS MADE HEREIN

WERE MADE BY ME, AND THAT ALL THE STATEMENTS ARE TRUE AND CORRECT

ACCORDING TO MY BEST KNOWLEDGE AND BELIEF

DATE: 1-30-2005

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

FMC - DEFEND

42 PATTON ROAD

P.O. Box 879

AYER, MASSACHUSETTS

01432

CERTIFICATE OF SERVICE

SEE THE SERVICE INFORMATION ON THE REVERSE SIDE OF THE SUMMONS

Coy Phelps

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

COY PHELPS

PETITIONER

-v-

DAVID WINN, et. al.

RESPONDENT(S)

CASE NO:

NOTICE OF

LAW SUIT

TO:

42 PATTON ROAD, P.O. BOX 880, AYER, MA 01432

FROM: COY PHELPS 78872-011, FMC DEVENS, P.O. BOX 879, AYER, MA 01432

PLEASE TAKE NOTICE

THAT ON (OR AS SOON AS POSSIBLE THEREAFTER) THE DATE APPEARING BELOW YOU WILL BE
SUED (IN THE ABOVE COURT) FOR A PERSONAL INJURY AND CIVIL RIGHTS VIOLATIONS,
IN WHICH COY PHELPS IS A VICTIM OF YOUR ACTS, ACTIONS, INACTIONS, OR OMISSIONS.

DATE: /

Coy Phelps

IN PRO SE

COY PHELPS 78872-011

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

COY PHELPS

CASE NO.

PETITIONER

-V-

RETURN

DAVID WINN, et al.

RESPONDENT(S)

TO: FMC-DEVENS, 42 PATTER ROAD, P.O. BOX 880, AYER, MA 01432

ENCLOSED IS A COPY OF A COMPLAINT, NOTICE OF LAWSUIT AND A SUMMONS TOGETHER WITH 2 COPIES OF THIS RETURN AND A SELF ADDRESSED ENVELOPE. PLEASE KEEP ONE COPY OF THIS RETURN FOR YOUR RECORDS AND RETURN THE OTHER TO COY PHELPS 78872-011 AT P.O. BOX 875, AYER, MA 01432. BY SIGNING THIS RETURN YOU ARE NOTIFYING THE ABOVE PETITIONER THAT YOU RECEIVED THE ABOVE DOCUMENTS AND THAT YOU DO NOT WAIVE OR SURRENDER ANY RIGHTS OR DEFENSES.

DATE:

COY PHELPS 78872-011

I CERTIFY I RECEIVED A COPY OF A COMPLAINT, NOTICE, AND SUMMONS IN THE ABOVE CASE.

DATE:

SIGNATURE:

PRINTED NAME: